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INTERNATIONAL LAW AND IMMIGRATION

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ASSOCIATION

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WAKE OF VIOLENCE: XENOPHOBIA AND UNDERSTANDING THE TRAUMA,” which dealt with the current rise of hate crimes directed against AAPIs in the US. Executive Committee member Payal Sinha organized and moderated a presentation by therapist Regina Wei and Deputy District Attorney Amelia Diedrich. You can view this important and timely presentation in our webinar library; it is good for 1-hour MCLE credit in Recognition and Elimination of Bias.

- On May 20, ILS co-sponsored with the Environmental Law Section a book club Zoom on “THE FEATHER THIEF: BEAUTY, OBSESSION, AND THE NATURAL HISTORY HEIST OF THE CENTURY.” A wide-ranging discussion covered issues in international criminal law, including extradition, ornithology, museum curatorship, natural history and fly fishing. Yes, fly fishing.
- On June 3, CLA leadership, together with Section leadership, including several former Section Chairs, attended a Zoom session with the Kanagawa Bar Association. Kanagawa is the prefecture just south of Tokyo that includes Yokohama, Yokosuka and Kawasaki. At the end of this Zoom it was decided that we would move forward with a friendship agreement, which will be the third Japanese bar association, after Osaka and Tokyo Dai-ichi, with whom we have such agreements. Special thanks to former Chair Harumi Hata for her tireless efforts in this area.

CHAIR’S COMMENT

Dear ILS Members,

It is my great pleasure to offer the Chair’s comment in the current issue of *ILS NEWS*. We have had an eventful couple of months, with presentations for members, as well as events that we hope will lay foundations for future development and growth. Among these are the following:

- On April 21, ILS co-sponsored a webinar with CYLA titled “CONVERSATION IN THE



- On June 4, at the invitation of the Osaka Bar Association, I attended a Zoom presentation to celebrate the signing of a friendship agreement between that organization and the New York State Bar Association, with a symposium presentation on “How Did and Will the Judiciary Overcome the COVID-19 Crisis?”

As always, we welcome your input. And for immigration lawyers, do not forget to check our monthly Immigration Update on the CLA website, edited by Payal.



William Tolin Gay¹

INTERNATIONAL PRIVATE (COMMERCIAL) AND PUBLIC LAW DEVELOPMENT HIGHLIGHTS

This column focuses on developments of note that impact California transnational legal practice. While the developments below were collected by the editors during the period of February 2021 to early June 2021, the *ILS NEWS* welcomes Section members bringing other developments to our attention and invites readers to contribute short notes about other legal developments.

¹ Attorney at Law, Wilson Elser Moskowitz Edelman & Dicker LLP

² Treusch Distinguished Professor Emeritus of International Legal Studies, Southwestern Law School; Member, CLA-ILS Executive Board; former Editor-in-Chief, *California Lawyers Association-*

2021 President Biden’s Executive Orders

As of June 3, 2021, President Biden has published 48 [Executive Orders](#) (from EO 73985 through EO 14032). Some of the notable Executive Orders are as follows:

- [EO 14017 signed on February 24, 2021](#) to strengthen the resilience of America’s supply chain.
- [EO 14019 signed on March 7, 2021](#) to promote access to voting.
- [EO 14026 signed on April 27, 2021](#) to increase the minimum wage for federal contractors.
- [EO 14028 signed on May 12, 2021](#) to improve the Nation’s Cybersecurity.
- [EO 14029 signed on May 14, 2021](#) to revoke, amongst others, EO 13925 signed on May 28, 2020 to prevent online censorship.
- [EO 14030 signed on May 20, 2021](#) regarding climate-related financial risk.
- [EO 14032 signed on June 3, 2021](#) to address the threat from securities investments that finance certain companies of the People’s Republic of China.

Political Appointments of International Practice Significance

As a follow up to our previous edition of the *ILS NEWS*, here is a list of positions of *international practice significance* for California practitioners, selected by the former *ILS NEWS* Editor-in-Chief Bob Lutz² as of June 7, 2021:

International Law (CLA-ILS) *Newsletter*; Former Chair, ABA Section of International Law and EIC, *The International Lawyer*; Current Co-chair, ABA-Senior Lawyers International Committee; and Member, US State Department Advisory Committee on International Law.



Position	Names
Secretary of Defense	Lloyd Austin
Secretary of Treasury	Janet Yellen
Secretary of State	Antony Blinken
Secretary of Homeland Security	Alejandro Mayorkas
Secretary of Health & Human Services	Xavier Becerra
Secretary of Agriculture	Tom Vilsack
Secretary of Transportation	Pete Buttigieg
Secretary of Interior	Deb Haaland
Attorney-General (Dept. of Justice)	Merrick Garland
Secretary of Commerce	Gina Raimondo
Director of National Intelligence	Avril Haines
National Security Adviser	Jake Sullivan
Director of the Central Intelligence Agency	William Burns
Director of the Federal Bureau of Investigation	Christopher A. Wray
Agency for International Development	Samantha Power
Climate Change Envoy (seat on National Security Council)	John Kerry
Acting Legal Adviser (US State Department)	Richard C. Visek

Position	Names
US Ambassador to United Nations	Linda Thomas Greenfield
US Trade Representative	Katherine Tai
Administrator of the Environmental Protection Agency	Michael S. Regan

Review of Domestic Supply Chain

Pursuant to EO 14017, President Biden ordered a 100-day interagency review of domestic supply chains. On June 8, 2021, the Biden Administration released its 100-day supply chain review of the following critical industries:

- Semiconductor manufacturing and advanced packaging;
- Large capacity batteries;
- Critical minerals and materials; and
- Active pharmaceutical ingredients.

The recommendations are divided into the following categories:

- Rebuild production and innovation capabilities;
- Support development of markets with high road production models, labor standards and product quality;
- Leverage government's role as a market actor;
- Strengthen international trade rules including trade enforcement mechanisms;
- Work with allies and partners to decrease vulnerabilities in the global supply chain; and
- Partner with industry to take immediate action to address existing shortages.

Click [here](#) for the full report.



List of Entities Subject to the Prohibitions under EO 13959 Effective August 2, 2021

The President listed 59 entities subject to the prohibitions under EO 13959. The purpose of the EO is to prevent US investment from supporting the Chinese defense sector and expanding the US Government's ability to address the threat of Chinese surveillance technology firms. Click [here](#) for the full list of entities.

G7 Finance Ministers' Commitment to Global Minimum Tax

On June 5, 2021, Secretary of the Treasury Janet Yellen, issued a statement that the G7 Finance Ministers have made a significant, unprecedented commitment to provide tremendous momentum towards achieving a robust global minimum tax at a rate of at least 15% to end the race-to-the-bottom in corporate taxation and ensure fairness for the middle class and working people in the US and around the world. Further, the G7 Finance Minister & Central Bank Governors committed to properly embed climate change and biodiversity loss considerations into economic and financial decision-making.

Click [here](#) for the transcript of the press conference by Janet Yellen following the close of the G7 Finance Ministers Meetings.

Click [here](#) for G7 Finance Ministers & Central Bank Governors Communique.

Global Vaccine Sharing

On June 3, 2021, the Biden Administration announced its framework for sharing at least 80 million US vaccine doses globally by the end of June and the plan for the first 25 million doses. Click [here](#) for more details. On June 10, 2021, the Biden Administration announced that the US will purchase and donate half a billion Pfizer vaccines to 92 low- and lower middle-income countries and the African Union. Click [here](#) for more details.

US-China Relations

US Innovation and Competition Act: On June 8, 2021, the Senate passed the US Innovation and Competition Act to make generational investments in research and development and advance manufacturing to help grow critical industries and remain competitive with China. The bill commits roughly \$200 billion in funding for scientific research, subsidies for chipmakers and robot makers and an overhaul of the National Science Foundation.

Climate Change: US Special Presidential Envoy for Climate John Kerry, and Special Envoy for Climate Change, Xie Zhenhua, issued a joint statement committing the two countries to cooperate with each other and other countries to tackle the climate crisis. US and China intend to, amongst other things: (a) maximize international investment and finance in support of the transition from carbon-intensive fossil fuel-based energy to green, low carbon and renewable energy in developing countries; and (b) phase down hydrofluorocarbon production and consumption. Click [here](#) for the full text.

Taiwan: On April 9, 2021, the State Department issued new guidelines for US government interaction with Taiwan counterparts to encourage US government engagement with Taiwan that reflects our deepening unofficial relationship. The guidelines underscore Taiwan as a vibrant democracy and an important security and economic partner that is also a force for good in the international community. They also liberalize guidance on contacts with Taiwan, consistent with our unofficial relations, and provide clarity throughout the Executive Branch on effective implementation of our "one China" policy, which is guided by the Taiwan Relations Act, the three Joint Communiques, and the Six Assurances. The new guidelines have been issued following a review as set forth in the Taiwan Assurance Act.

US Department of Justice

Tax Attorney Indicted for Facilitating Tax Fraud: A federal grand jury in San Francisco returned an indictment today charging a Houston-based tax



attorney for conspiring with the CEO of a private equity firm to defraud the IRS. The attorney helped the CEO create and maintain offshore entities that were used to conceal from the IRS approximately \$225 million of capital gains income that the CEO had earned. The attorney allegedly assisted in the preparation of the CEO's false 2012 to 2014 tax returns. Click [here](#) for more details.

Switzerland's Largest Insurance Company Admits to Conspiring with US Taxpayers to Hide Assets and Income in Offshore Accounts: On May 14, 2021, the Justice Department filed criminal information charging Swiss Life Holding AG, Swiss Life (Liechtenstein) AG, Swiss Life (Singapore) Pte. Ltd. and Swiss Life Luxembourg SA with conspiring with US taxpayers and others to conceal from the IRS more than \$1.452 billion in offshore insurance policies, including more than 1,600 insurance wrapper policies and related policy investment accounts and income generated in these accounts in banks around the world. The Justice Department announced a deferred prosecution agreement with all these Swiss Life entities under which the entities agreed to, amongst other things, accept responsibility for their criminal conduct and pay approximately \$77.3 million to the US Treasury, which includes restitution, forfeiture of all gross fees and a penalty component. Click [here](#) for more details.

Seizure of \$2.3 Million in Cryptocurrency Paid to Ransomware Extortionists: On June 7, 2021, the Justice Department announced that it had seized 63.7 bitcoins currently valued at approximately \$2.3 million. These funds allegedly represent the proceeds of a May 8 ransom payment to individuals in a group known as Darkside that targeted Colonial Pipeline resulting in critical infrastructure being taken out of operation. Click [here](#) for more details.

Attorney General Announces Initiatives to Combat Human Smuggling and Trafficking and Fight Corruption in Central America: On June 7, 2021, US Attorney General Merrick Garland, announced the establishment of Joint Task Force Alpha, a law enforcement task force that will marshal the investigative and prosecutorial resources of the Justice Department, in partnership with the

Department of Homeland Security, to enhance US enforcement efforts against the most prolific and dangerous human smuggling and trafficking groups operating in Mexico and the Northern Triangle countries of Guatemala, El Salvador and Honduras. Click [here](#) for more details.

OTHER INTERNATIONAL ORGANIZATIONS AND INTERNATIONAL AGREEMENTS

United Nations

Children: The UN Committee on the Rights of the Child issued guidelines on how young people and children should be treated in the digital world and how their rights should be protected. The recommendations include legislation to protect children from harmful and misleading comments, regulate how businesses use personal data of children. Click [here](#) to download the full text.

Rewards for Justice Program: According to an independent UN human rights expert, the "Rewards for Justice" program in the US is violating the human rights of some individuals it targets. The program offers money for information about people outside the US designed as being associated with terrorism but who have not been charged with any crimes. There is a presumption of innocence and fair trial, which the US is obliged under international law to respect, but the program affects the targeted individual's right to work, freedom of movement, reputation and life. Further, there is no access of justice to protect these rights.

Protection of Seafarer Human Rights: On May 6, 2021, the UN launched the Human Rights Due Diligence Tool to protect around 20,000 cargo ship crew members who are stranded at sea beyond the length of their contracts due to COVID-19 restrictions placing a major strain on their physical and mental health. Click [here](#) for a copy of the Human Rights Due Diligence Tool.

Climate Change: According to the UN-backed report published on May 6, 2020, methane emissions caused by human activity can be reduced by up to 45% this decade. This will, amongst other things,



keep global temperature rise to 1.5 degrees Celsius, in line with the Paris Agreement, improve air quality that can save hundreds or thousands of lives, improve food security by preventing crop losses and create jobs through mitigation efforts while increasing productivity through reduced heat stress. Click [here](#) for the full report.

Corruption: The UN created the Global Operational Network of Anti-Corruption Law Enforcement Authorities (“GlobE Network”). GlobE Network is designed to enable law enforcement authorities to navigate legal processes through informal cooperation across borders, helping to build trust and bring those guilty of corruption to justice. The role of GlobE Network is to ensure that all countries and their independent anti-corruption authorities have the contacts and tools they need to track, investigate and prosecute cross-border corruption, including in origin, transit and destination countries, quickly and effectively. Click [here](#) to view GlobE Network’s website.

UN Decade on Ecosystem Restoration: In June 2021, the UN launched the UN Decade on Ecosystem Restoration (“UN Decade”). The UN Environment Programme and the Food and Agriculture Organization are co-leading this global movement to re-imagine, recreate and restore ecosystems. UN Decade runs through 2030 which is the timeline scientists have identified as humanity’s last chance to prevent catastrophic climate change. Click [here](#) to view UN Decade’s website.

Bosnia: On June 8, 2021, the International Residual Mechanism for Criminal Tribunals upheld the life sentence imposed on Ratko Mladic, former Bosnian Serb military Chief, for his role in the Balkan wars in the 1990s. Click [here](#) for more details.

International Criminal Court (Report of Activity — February 2021 – May 31, 2021) by Sean Butler³

Biden Administration Revokes Trump Administration Executive Order 13928 for Sanctions Against ICC Personnel: On April 2, 2021, the [Biden Administration revoked the Trump administration executive order of economic and travel sanctions against personnel of the International Criminal Court](#). Secretary of State A. Blinken issued a press release stating the US still disagreed with the ICC regarding its approach to the situations in Afghanistan and Palestine, but “... concerns about these cases would be better addressed through engagement with all stakeholders in the ICC process rather than through the imposition of sanctions...”

American Society of International Law Task Force Report on US Engagement with the ICC: In April 2021, [the ASIL Task Force issued a report](#) on policy options for US engagement with the ICC, including interactions with the ICC at the UN, engagement on the crime of aggression and other developments from the Kampala Review Conference, interaction with the Assembly of State Parties and support for ICC investigations. The report also addressed the situations in Afghanistan and Palestine, as well as interests of the US that overlap with those of the ICC and a comprehensive list of possible “policy options for positive engagement.”

ICC Launches Case Law Database: In March 2021, the ICC launched a [case law database](#) allowing for full text searches and keyword searches.

Proposal to Include Ecocide as Crime Within the Subject Matter Jurisdiction of the ICC: [The efforts to define the crime](#) include work by Professor Kate Mackintosh at UCLA Law’s Promise Institute for Human Rights.

Three Former Ambassadors Support Justice for Atrocity Crimes: [An Opinion in The Hill by three](#)

³ Attorney-at-Law, Los Angeles; Chair, International Criminal Court Alliance.



[former US Ambassadors](#) supports renewed US support for justice for atrocity crimes.

Update on Cases: In February 2021, [Dominic Ongwen was convicted of war crimes and crimes against humanity](#) for his leadership activities as part of the Lord's Resistance Army in Uganda. Ongwen initially turned himself in to US military personnel who arranged for his surrender to the ICC. On May 6, 2021, he was sentenced to 25 years in prison. The time to file a notice of appeal was extended to May 21, 2021.

On March 30, 2021, the Appeals Chamber of the ICC confirmed the conviction and sentence of Bosco Ntaganda of 18 counts of war crimes and crimes against humanity in the Ituri district of the Democratic Republic of Congo and the sentence of 30 years.

On March 8, 2021, [Trial Chamber VI of the ICC ordered reparations for victims in the Ntaganda case](#), to be paid from the Trust Fund for Victims.

On March 31, 2021, the Appeals Chamber of the ICC confirmed, by a majority, the acquittal of Laurent Gbagbo and Charles Blé Goudé from all charges of crimes against humanity allegedly committed in Côte d'Ivoire in 2010 and 2011.

Afghanistan: In May 2021, the [Afghan Foreign Minister met with ICC prosecutors](#) regarding Afghan claims that it would promptly and adequately investigate and prosecute Afghan personnel and request deferral of ICC proceedings against those personnel. The investigation regarding Afghanistan includes personnel of all parties to the conflict, including the Afghan people, the Taliban and the US. Following the meeting, the Prosecutor issued a statement on working with the Afghan government on "how justice may best be served through joint collaborative efforts." No decision has been made on the deferral request. The attorneys for the victims have [petitioned](#) Pre-Trial Chamber II for a decision on whether the deferral includes only Afghanistan or also applies to other parties.

Central African Republic: The trial of Patrice-Edouard Ngaïssona and Alfred Yekatom opened February 21, 2021 in Trial Chamber V for war crimes

and crimes against humanity, including directing attacks on civilian populations, and is ongoing.

On April 15, 2021, Pre-Trial Chamber II issued a decision on the participation of victims in the case against Mahamat Said Abdel Kani, who was surrendered to the Court in January 2021. The confirmation of charges hearings is scheduled to commence October 5, 2021.

On April 26, 2021, there was [an announcement](#) that the Trust Fund for Victims was implementing the assistance program for victims in the Central African Republic.

Iraq: Karim Khan, the incoming Prosecutor starting in June 2021, is part of a team from the United Nations investigating war crimes in Iraq that issued a statement in May 2021 that Daesh terrorists in Iraq committed war crimes and possibly genocide against Yazidi and war crimes against Shia Muslims, including mass killings, rape and torture. The ICC closed the investigation of conduct by UK personnel in Iraq based on complementarity and the proceedings conducted by UK authorities. The involvement by Khan in the UN investigation may mean the ICC takes up the allegations of crimes committed by personnel of Daesh in Iraq.

Kenya: On April 23, 2021, Pre-Trial Chamber A issued a scheduling order for the case against Paul Gicheru, who is accused of offenses against the administration of justice by corruptly influencing witnesses. The decision on the confirmation of charges is to be made not later than 60 days after the May 17, 2021 filing of the reply of the defense.

Libya: On May 17, 2021, the Prosecutor provided a [statement](#) regarding the status of the case to the UN which referred the situation in Libya to the ICC in 2011. There are reports that two of those subject to arrest warrants have died, and the Prosecutor called for cooperation to arrest those who have been charged but remain at large.

Palestine: On February 5, 2021, Pre-Trial Chamber I [decided](#) the ICC has territorial jurisdiction over Palestine, including Gaza, the West Bank and East Jerusalem. The referral related to alleged crimes



committed in the 2014 Gaza conflict. The decision was a majority decision with one judge dissenting. The decision that the ICC has territorial jurisdiction is based in part on United Nations resolutions recognizing territories of Palestine which was requested by the Fatah leadership in Palestine.

On March 3, 2021 (prior to the most recent escalation of violence) Prosecutor Bensouda issued a [“Statement respecting an investigation of the situation in Palestine.”](#)

In May 2021, regarding the recent conflict, the Prosecutor announced she was monitoring developments on the ground and would factor in any matter that falls within the jurisdiction of the ICC while echoing the calls of the international community for calm, restraint and a stop to the violence.

Sudan (Darfur): The situation in the Darfur region of Sudan was a UN Security Council referral to the ICC. Ali Muhammad Ali Abd-Al-Rahman first appeared before the ICC on June 15, 2020 for war crimes and crimes against humanity allegedly committed in Darfur (Sudan). Confirmation of charges hearings took place May 24-27, 2021. A decision is expected within 60 days.

Preliminary Examinations: There are ongoing preliminary examinations regarding:

- Alleged war crimes committed since November 1, 2009 and alleged crimes against humanity committed since November 1, 2002 in Colombia;
- Alleged crimes against humanity committed in the context of the September 28, 2009 events in Conakry, Guinea;
- The preliminary examination concluded with a determination to request authorization from the Pre-Trial Chamber to open an investigation regarding Nigeria and Boko Haram;
- Alleged crimes committed in Ukraine since November 21, 2013;
- Alleged crimes committed since at least July 1, 2016, in the context of the “war on drugs” campaign in the Philippines;

- Alleged crimes committed since at least April 2017, in the context of demonstrations and related political unrest in Venezuela, and a second situation, a self-referral made by Venezuela on February 14, 2020; and
- Alleged crimes against humanity committed in Bolivia in August 2020.

Ongoing Investigations: In addition to the cases against the individuals listed above, investigations continue regarding situations in: the Democratic Republic of Congo (self-referral); Uganda (self-referral); Sudan (Darfur-UN Security Council referral); Central African Republic (self-referral); Kenya (prosecutor acting *proprio motu*); Libya (UN Security Council referral); Cote D’Ivoire (prosecutor acting *proprio motu*, jurisdiction accepted by Côte D’Ivoire); Mali (self-referral); Central African Republic (self-referral); Georgia (prosecutor acting *proprio motu*); Burundi (prosecutor acting *proprio motu*); Bangladesh/Myanmar (prosecutor acting *proprio motu*).

Selection of New President and Vice-Presidents of the Court: In March, the Court elected a new President of the Court for 2021-2024: Judge Piotr Hofmański (Poland). Judge Luz del Carmen Ibáñez Carranza (Peru) was elected First Vice-President and Judge Antoine Kesia-Mbe Mindua (Democratic Republic of Congo) Second Vice-President.

Selection of New Prosecutor:

On February 12, 2021, Karim Asad Ahmad Khan of the United Kingdom was elected to be the next Prosecutor. His nine year term starts June 16, 2021.

The [ICC website](#) and [Facebook page](#) have other information regarding closed investigations and cases, policy statements, and the Trust Fund for Victims.



IMMIGRATION SECTION

Supreme Court holds that “Temporary Protected Status (TPS)” does not constitute an “admission” for purposes of obtaining Legal Permanent Residency, for those who entered the US unlawfully by Payal Sinha⁴

A unanimous Supreme Court judgment, in the matter of [Sanchez v. Mayorkas](#), 593 U.S. ____ (June 7, 2021), resolved the circuit split that existed for years on whether a grant for TPS authorizes eligible noncitizens to adjust status to lawful permanent resident even if they entered the US unlawfully – the **Court held that it does not.**

Previously, courts in the Sixth, Eighth, and Ninth Circuits have held that the grant of TPS was considered an inspection and admission for adjustment purposes, allowing individuals to adjust status, whereas the Third and Eleventh Circuits came to opposite conclusions.

The case was brought by Jose Santos Sanchez, a Salvadoran immigrant who entered the US illegally in 1993 but was later protected under TPS in 2001. He applied for a green card in 2014 but was deemed ineligible.

TPS grants temporary humanitarian relief from deportation to individuals from certain countries where, due to natural disaster or armed conflicts, conditions are too dangerous for these individuals to return. Immigration and Nationality Act (INA), [Section 1254a\(f\)\(4\)](#), establishes that individuals granted TPS maintain lawful nonimmigrant status, and may adjust this status to permanent resident based upon “a lawful entry of the alien into the United States after inspection and authorization by an immigration officer.”

Sanchez argued that TPS recipients with “lawful status as a non-immigrant” and should be treated “as

though they had been inspected.” The Court held that the legal-entry requirement is distinct and independent.

Additionally, the decision concludes that those who entered legally are potentially eligible to adjust status to lawful permanent resident, and those who entered the unlawfully are not eligible to adjust status to lawful permanent resident.

Justice Elena Kagan explained that “a designation conferred by the State Department because of humanitarian or security conditions in a country – is not itself admission.” She further noted that there is pending in Congress the American Dream and Promise Act that states explicitly that “a TPS recipient shall be considered ‘as having been inspected and admitted into the United States, and’ as being in, and maintaining, lawful status as a nonimmigrant,” and the Court simply cannot read that into the current statute. The entire Judgment can be found [here](#).

According to the [Congressional Research Service](#), [there are an estimated 320,000 foreign nationals currently living the US and protected by TPS](#). Twelve countries are designated for TPS, due to the humanitarian crisis, until September 2022. This decision could be a considerable setback for thousands of US residents who are temporarily protected from deportation because of unsafe conditions in their home countries and now want to remain permanently in the US.



Payal Sinha

⁴ Attorney, San Francisco; Executive Committee Member; Editor, ILS monthly immigration updates.



EXECUTIVE COMMITTEE

2020-2021 Executive Committee

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FOREIGN BAR RELATIONS COMMITTEE

Chairs: Richard Bainter and Joshua Surowitz

Any ILS member interested in joining the Foreign Relations Committee of ILS should contact us at ils@calawyers.org. The Committee is currently

scheduled to meet at noon on the third Wednesday of each month. The next meeting will be on June 17, 2021.

Program with Osaka Bar Association by Harumi Hata⁵

On February 11, 2021, the CLA International Law and Immigration Section (ILS) participated in a program presented by the Osaka Bar Association entitled “Local Report from Los Angeles by California Lawyers Association.” Harumi Hata, Past ILS Chair, and Masahisa Mitsunaga, ILS member, presented at the program. According to the Osaka Bar Association, this program was the first virtual online program presented by the Osaka Bar Association. The ILS has enjoyed a longstanding relationship with the Osaka Bar Association based on the friendship agreement initially signed in 2012. Over the years, the Osaka Bar Association and the ILS have held joint programs, including live seminars and conferences in California and Osaka, Japan. Many of the Osaka Bar Association lawyers have attended many of the Annual Meetings in California. We are grateful to the Osaka Bar Association for the meaningful and enriching collaboration over the years.



Screenshot from the program with the Osaka Bar Association entitled “Local Report from Los Angeles by California Lawyers Association.”

⁵ Shareholder at Buchalter.



ILS Meets with Kanagawa Bar Association by Richard Bainter⁶

ILS met virtually with the Kanagawa Bar Association (KBA) on June 3, 2021 to discuss legal issues of mutual interest and to explore opportunities for future collaboration.

Mr. Hiroyuki Futagawa, KBA President, opened the meeting and welcomed the dialogue between the two organizations. Ona Dosunmu, CLA CEO and Executive Director, and Emilo Varanini, CLA President, represented CLA and explained CLA's transition from the State Bar, the structure of the organization and the role of the Sections. Bill Gay, ILS Chair, speaking fluently in Japanese, described the work of the ILS. Richard Bainter, Co-Chair of the Foreign Bar Relations Committee, talked about the function and activities of the Foreign Bar Relations Committee. KBA gave a presentation about Kanagawa, the requirements to qualify as an attorney in Japan and the structure and role of KBA.

There was an opportunity for questions and discussion following the opening presentations. COVID-19 and how it has affected the practice of law and the operation of the courts was the topic of most interest to both delegations. There were many similarities in the experiences, but also some differences. For instance, most lawyers in Kanagawa continued to work from their offices and to meet with clients in-person throughout 2020. Courts moved many of their functions online, but law offices did not.

All participants expressed an interest in future in-person meetings between the two bars and other opportunities to share information about legal issues and law practice.

Special thanks to Harumi Hata, past ILS Chair, who organized the event, along with Mr. Yuta Muramatsu, Vice-Chair of the International Exchange Committee of the KBA.



Screenshot from the event with Kanagawa Bar Association.

EDUCATION COMMITTEE

Chair: Melissa Allain

Anyone interested in organizing a webinar or interested in speaking about a particular topic that would be of interest to ILS members should email us at ils@calawyers.org.

ILS Webinar Discusses Xenophobia and Understanding of the Trauma: Conversation in the Wake of Violence by Payal Sinha

The ILS strongly condemns violence against vulnerable communities. But condemning violence requires more than just words. It needs an understanding of the importance of different cultures. Starting with the importance of recognizing that the term "AAPI" (Asian American and Pacific Islanders) encompasses a wide range of countries, ethnicities, nationalities, and identities. And throughout these years, the violence against the community has risen to the level of concern. According to the "Stop AAPI Hate" report, since March 2020, approximately 4,000 anti-Asian hate incidents have been reported across the nation. Out of which, Californians account for 44% of such incidents. The act of violence in Atlanta was not one isolated incident, but such incidents have

⁶ Attorney in San Diego and ILS Treasurer



contributed to the continuing rise of violence and hate crimes against the AAPI community.

In April 2021, ILS hosted a panel of speakers with Deputy District Attorney, Amelia Diedrich, Registered MFTI, Regina Wei and CA Attorney, Payal Sinha, a diverse moderator, to further discuss these incidents of upcoming violence. The main focus of the conversation was to explore the nature and impact of hate crimes under the legal definition and the challenges in prosecution. The conversation also emphasized how bystander intervention might play a role in prevention and support the community, and a brief resource guide was also provided for supportive services available for the community.

We also wanted to emphasize that May is Asian American Pacific Islander Heritage Month! To celebrate, we are highlighting Regina Wei, the speaker, who contributed her time during the webinar to educate us about trauma. Ms. Wei contributes her knowledge to the community through her practice. She provides culturally sensitive, identity-affirming, and trauma-informed therapy using a holistic, collaborative, and profoundly compassionate approach. We asked her a series of questions to get to know her better.

ILS: In your opinion, why is the Asian experience so often overlooked in discussions about racism?

Ms. Wei: I think, since the conversation about race has, historically, been couched in binary Black and White terms, what a lot of people do not know is that AAPI has always been a part of this country's fight for civil rights. However, it is not included in history sessions at schools.

The umbrella designation of AAPI covers so many cultures, ethnicities, and languages, some cultural characteristics shared by many AAPI folks – such as the tendency to stay quieter, put their heads down and work and not make waves – may also contribute to the exclusion of Asian American experience in discussions about racism. It is most important to understand that the model minority myth that extols Asian American (specifically, East Asian American) experiences, actually locks them into stereotypes that

gloss over the racial trauma that AAPI folks experience due to overt acts of racism as well as microaggressions.

ILS: What do you think are the contributing factors to the racist, anti-Asian attitudes that seem to be so prevalent in our society?

Ms. Wei: In my experience, while xenophobic, anti-Asian sentiment has been a part of this country's culture for as long as Asian Americans have been here (at least since the mid-1800s), the last racist, xenophobic administration and ultra-conservative political climate of the past four years has emboldened people to engage in open violence and perpetuate the hatred we see today. At its core, it is about fear. White folks who engage in this kind of behavior are afraid of giving up their privilege in this society and are also irrationally fearful of people and cultures who are different from what they know. What is really interesting is when we see non-Asian BIPOC (Black, Indigenous, People of Color) engaging in xenophobic, anti-Asian speech and behavior. They have bought into the dominant narrative about power (who has it and what one must do to get it) as well as a scarcity mindset. White supremacy culture maintains dominance by pitting non-Whites against each other. This is precisely what the model minority myth was designed to do: grant some (supposed) privileges to one group of minorities which in turn creates resentment and division among all BIPOC folks.

ILS: How do you think the recent violent attacks and hate crimes have affected the AAPI community and have affected "you or your family"?

Ms. Wei: Based on my observation, the recent violence and hate crimes have put many AAPI folks on edge. People, especially the elderly, are more reluctant to leave their homes and/or change the way they move around because of a concern for their safety. Those with elderly parents worry a lot more about their parents' safety. I live in a neighborhood in LA with significant Asian American and Latinx populations so I have not experienced much xenophobia. However, I still think about my safety when I'm out in public and am more alert than I was



in the past. I find comfort in knowing that I am trained in self-defense because I know I can protect myself if I have to, but I wish I didn't have to think that way.

I recommend AAPI folks dealing with the anxiety and fear of violence/hate crimes find support within our families and communities. It can be beneficial to talk to people who understand what you are experiencing. I also recommend joining support groups, learning basic self-defense, and working with therapists who understand racial trauma.

I also would like to emphasize that self-care is key. It is really important that we take the time to slow down, breathe, move and allow our bodies to come out of a hyper-aroused state.

ILS: Lastly, what do you think are the best ways for allies to support the AAPI community now and going forward?

Ms. Wei: I would say, educate ourselves about the history of racism in this country and to remember that anti-Asian sentiment in this country is not a new thing by any means. I strongly believe that all BIPOC need to stand together in solidarity if we are to create a new, more enlightened society in which all people are truly valued and respected. Asian Americans need to stand with Black folks, and vice versa. Our liberation is bound together.

To get more insights on the webinar and hear the discussions, please click [here](#).



Regina Wei

05/27/2021 @ 1pm – Negotiation and Arbitration of Investor State Disputes

As a foreign investor and a host State are engaged in an investment dispute, there is an opportunity to resolve the matter without going to litigation or international arbitration. Negotiations can take place before any request for arbitration (RfA) has been submitted, during the course of the arbitration, or even after an unfavorable award has been rendered.

Investment treaties may provide or mandate a period of time to solve the dispute amicably as a preliminary step known as the “cooling-off” period before the RfA is submitted. While many investment treaties require such a step or include a period of time for negotiation, negotiation experience leading to successful settlement prior to initiation of arbitration, are not that common and constitute the subject of this webinar, with an emphasis on cross-border investments in the US, Asia and Latin America. The panelists will also touch upon the early actions to initiate arbitration and how such actions may influence successful negotiations or create a healthy basis to further proceed with arbitration. Topics include:

- The business rational for investment treaties.
- Protections granted to foreign investments in Asia, US and Latin America. Particularly, the panelists analyze those international protections based on bilateral investment treaties and investment chapters of free trade agreements signed between the US and countries in Asia and Latin America.
- Experiences of negotiations of investment disputes.
- Experiences of early actions in investment arbitration proceedings.

Speakers: Daniel Alef and Jose Antonio Rivas. If you are interested in this webinar, click [here](#).

06/16/2021 @ 4pm – Wellness Wednesday: Support for Newer Attorneys

Free Event! Presented by the CLA Health and Wellness Committee



This month, we turn our attention to the well-being of new and younger lawyers. Please join us for a casual conversation to talk about what challenges you might be facing (e.g., job search burnout, competition among peers, career path changes, etc.) and/or provide support and suggestions. [Register here.](#)

06/24/2021 to 06/25/2021 – Solo and Small Firm Summit 2021

Earn up to 18.75 Hours of MCLE; which includes 3.0 Hours of Legal Ethics, 1.0 Hour of Competence Issues, 1.0 Hour Elimination of Bias and Legal Specialization in Bankruptcy Law and Estate Planning, Trust and Probate. Only \$120!

You won't want to miss the [2021 Solo and Small Firm Summit!](#) Inspired by attorneys in a solo and small firm practice, this annual two-day event brings together a community of solo and small firm practitioners to learn and connect in a virtual environment this year.

- Develop workable strategies to manage your office;
- Network with other solo and small firm practitioners;
- Learn key developments in substantive areas of law.

06/29/2021 @ 12pm – Joint Representation and Advance Waivers – Issues to Consider

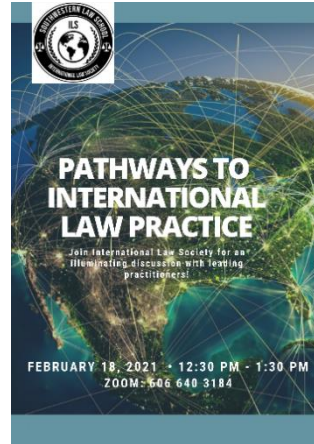
1.5 Hours MCLE; 1.5 Legal Ethics | Presented by the CLA Legal Ethics Committee

Joint representation and advance waivers are topics that increasingly arise, either because there are different attorneys from the same firm working on the same matter with different parties or because the clients have requested joint representation. This webinar will examine the ethical issues that should be considered before a law firm or attorneys decide to provide joint representation on a matter. [Read more](#)

STUDENT PROGRAMS COMMITTEE

Chair: Agustin Ceballos

Pathways to International Law Practice @ Southwestern Law School by Agustin Ceballos



On February 18, 2021 from 12:30 to 1:30 PM PST, the International Law Society of Southwestern Law School hosted the event "Pathways to International Law Practice" via Zoom with ILS. The speakers were Joshua Surowitz from Surowitz Immigration PC (immigration

attorney), Alejandro Moreno from Sheppard Mullin in San Diego (litigation attorney) and Agustin Ceballos from Seltzer Caplan McMahon Vitek in San Diego (international tax attorney). The event was moderated by Liliana Sánchez, the Co-President of the International Law Society at Southwestern Law.

The audience in attendance were 1L to 4L evening/part-time students, and Southwestern Law faculty and administration. The speakers talked about their personal background, their law school studies, activities and graduation year, and post-graduate trajectory to their current placement.

On behalf of ILS, we thank the Southwestern Law School for hosting this event!

09/15/2021 – Pathways to Careers in International Law Practice @ UCLA

We are looking for international law attorneys to share their experiences and provide guidance to law students. If you are interested in joining the panel of speakers, please email us at ils@calawyers.org.



IMMIGRATION LAW COMMITTEE

Chair: Joshua Suowitz

Monthly Immigration Updates

The immigration committee currently compiles immigration updates on a monthly basis. Please check out the [monthly immigration updates](#) available on the ILS website.

EVENTS BY OTHER ORGANIZATIONS, INSTITUTIONS AND GROUPS

06/15/2021 to 06/17/2021 Global Women Series

Registration is complimentary. Click [here](#) for more information.

The ABA International Law Section presents a three-day “Global Women Series” virtual conference that includes a daily 90-minute panel exploring international women’s issues. Presentations by internationally renowned speakers from around the world focus on three noteworthy commemorations: (i) Juneteenth, (ii) the 20th anniversary of World Refugee Day, and (iii) the 75th Anniversary of the UN Commission on the Status of Women (CSW).

08/30/2021 to 08/31/2021 2021 Virtual Africa Forum

Originally planned to take place in Accra, Ghana, the 2021 Pan-Africa Forum: “Africa’s New Era: Investment and Entrepreneurship” will be virtual on August 30-31, 2021. Some of the world’s leading experts will address a wide range of cutting-edge issues in international law over the course of two days in the form of plenaries. Click [here](#) for more information.

TO WFH OR NOT TO WFH?

Contributed by Tiffany Heah⁷



California is finally reopening on June 15. All sectors listed in the current [Blueprint Activities and Business Tiers Chart](#) may return to usual operations except for [Mega Events](#), which are subject to certain limitations. Everyone is probably tired of staying home and cannot wait for things to go back to normal.

Employers are probably wondering whether to allow their employees to continue working remotely, require them to return to the office or create a hybrid arrangement where they work from home a few days a week. Employees are probably trying to decide whether to go back to the office or quit their job if they are not able to work remotely.

Here are some articles with different perspectives to help you decide what works best for you:

- [Don't Let Employees Pick their WFH Days by Nicholas Bloom.](#)
- [Opinion: As a CEO, I worry about the erosion of office culture with more remote work by Cathy Merrill, chief executive of Washingtonian Media.](#)
- [Your office is reopening. Do you have to go back? These are your options by Jessica Roy.](#)
- [Working from Home vs Working from Office by Kasia Persynska.](#)

Separately, here are some articles to help with your mental health:

- [7 Habits of the Happiest People \(That Most of Us Rarely Practice\) by Marcel Schwantes.](#) According to research these practices are

⁷ ILS Vice Chair and Editor-in-Chief, *ILS NEWS*



good for your health and also good for business.

- [I'm a Neuroscientist, and This is How to Reboot Your Brain after a Year of Chronic Stress by Erin Bunch.](#)
- [If You're Exhausted by Zoom, Try Reverse Meetings Instead by Jessica Stillman](#)

ILS NEWS

Editor-in-Chief: Tiffany Heah

Managing Editor: Cathy Carlisle

Please submit articles (150-500 words), ideas, comments, notices, current developments and new publication announcements to us at ils@calawyers.org.

Opinions expressed herein are those of the authors and are not necessarily those of the California Lawyers Association or of the International Law and Immigration Section. Section dues are \$99 per year. Law Students can join the Section for free.



BENEFITS OF JOINING ILS

- [Fastcase legal research](#) – Free access to a powerful service that puts a comprehensive, nationwide law library at your fingertips (valued at \$995/year).
- Membership rate to the CLA Annual Meeting, Solo Summit, and other distinguished CLA events.
- [The California International Law Journal](#) subscription – features in-depth treatment of important practice topics, forms of agreements used in international practice,

and other information of interest to cross-border practitioners.

- *ILS NEWS* – designed to keep members up to date about international legal developments in transnational commercial and public law and Section activities.
- Monthly Immigration Update – designed to keep members up to date about immigration developments ranging from business based to humanitarian-based immigration issues.
- Lexology feeds subscription – source of international legal updates, analysis and insights authored by national and international law firms. If you have previously unsubscribed and would like to resubscribe, please update your preferences [here](#).
- Get high-quality [MCLE content online](#) in the format that works best for you: live webinars, on-demand video, downloadable podcasts, and self-study articles.
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