



Canadian Council on International Law
Conseil canadien de droit international

CCIL Newsletter | Bulletin CCDI

Volume 37: Issue 1 | Édition 1

Winter 2013 | Hiver 2013

IN THIS ISSUE

CETTE ÉDITION

PRESIDENT'S UPDATE

CONFÉRENCE ANNUELLE
2013 DU CCDI | 2013 CCIL
ANNUAL CONFERENCE

FEATURED ARTICLES

ESSAY: Is there a global
duty of international
development?

COMMUNITY EVENTS OF INTEREST

IN MEMORIAM - Donald J.
Fleming

Sponsor the CCIL Annual Conference

The theme of this year's Annual Conference is "**Contemporary Actors and their Actions: A New Look at the Formation of International Law**" to be held on **November 14-16** at Foreign Affairs and International Trade Canada in Ottawa.

Each year, the Annual Conference relies heavily on sponsors for its success. It is a gathering of CCIL Members over three days to discuss issues relating to a central international law theme. The Conference features leading experts from academia, government, the private sector, international organizations and non-governmental organizations. Approximately 350-400 international law practitioners attend the Annual Conference.

If you would like to get involved and/or sponsor the Conference, please feel free to review our [sponsorship package](#) and/or contact us at manager@ccil-ccdi.ca.

Visit us at:
www.ccil-ccdi.ca

Upcoming CCIL Event

Événements du CCDI

**CCIL-Jessup
Mini Conference**
Thursday, March 7
1:00pm-5:30pm

Dear Leanne,

Welcome to the CCIL Winter 2013 newsletter. We are excited to bring you several updates, announcements and articles of interest in the area of international law.

Bienvenue au Bulletin du CCDI d'hiver 2013. Nous sommes heureux de vous présenter plusieurs mises à jour, des annonces et des articles d'intérêt concernant le domaine du droit international.

President's Update on CCIL Activities

On behalf of the CCIL Board, it is my pleasure to provide you with an update on the recent activities of the CCIL.

Annual Conference

In November last year, the CCIL held its Annual Conference. Almost 400 international law professionals and students gathered to examine the topic of "SOS International Law: International Law in Time of Crisis and Emergency." Conference attendees participated in dozens of sessions and heard from very many notable individuals in international law including Philip Sands, D.A. Bellemare, David Malone, and Jennifer Hillman. The conference was a great success in offering attendees the opportunity to delve deeper into key issues in international law and network with colleagues.

Make sure you block off **November 14-16** of this year for the next annual conference, with the theme "**Contemporary Actors and their Actions: A New Look at the Formation of International Law.**" We welcome your ideas for speakers, panels, sponsors, and ways to reach out to potential attendees. With your help, we hope this year to continue to increase offerings, insights, and participation.

New Members to the Board of Directors

The CCIL began the new year by welcoming many new members to its Board of Directors: Deborah Bayley, Marie-Claude Boisvert, Adrienne Jarabek, Andrew Lanouette, Ilario Maiolo, Cory Olishansky, Jason Tolland, and Nadia Zed. Thanks to the energy of Board Members old and new, we have already held a number of successful events and begun new initiatives this year, starting with this newsletter.

Half-Day Conferences

The CCIL held its first half-day conference on February 8, 2013, hosted by Bennett Jones LLP in Toronto. The conference examined international Investment issues including Canada's Foreign Investment Promotion and Protection Agreements, ICSID Ratification and the Canada-EU Comprehensive Economic and Trade Agreement Negotiations. A summary of the presentation given by Dieudonné Édouard Onguene Onana has been included in this newsletter. The CCIL also held a talk by Nitsana Darshan-Leitner, co-sponsored by Foreign Affairs and International Trade Canada. Ms. Darshan-Leitner spoke of her work at Shurat Ha Din, a civil rights organization which is

Kingston, ON
[Register Now!](#)

**Mini-conférence
Jessup-CCDI**
Jeudi, 7 mars
(13h à 17h 30)
Kingston (On)

[Inscrivez-vous maintenant](#)

www.ccil-ccdi.ca

Websites of Interest

Sites Web d'intérêt

[Blogue de la Clinique de droit international pénal et humanitaire](#)

Le Blogue de la Clinique de droit international pénal et humanitaire (CDIPH) est un espace de communication quasi-simultanée entre experts et étudiants utile à la réflexion, à la vulgarisation et à l'avancement du droit. Il ouvre une porte sur le monde à ceux et celles qui souhaitent s'exprimer, brièvement ou longuement, sur le sujet de leur choix. Entre média d'information et source doctrinale, il est par ailleurs le seul blogue francophone dédié au droit international pénal et humanitaire présentement actif dans le cyberspace. Lisez et commentez nos blogues, et, si le cœur y est, soumettez-nous vos billets !

Join the CCIL

Joindre le CCDI

Become a member and have access to a network of professionals with similar interests.

[More info...](#)

Devenez membre et profitez des avantages tel que l'accès à un réseau de professionnels partageant des intérêts similaires.

[Pour en savoir plus...](#)

Follow Us

Suivez-nous



based in Israel and is dedicated to combatting terrorist organizations through litigation in domestic courts.

Next we have another half-day conference on March 7th in cooperation with the Jessup in Kingston discussing migration, detention, and sovereign debt. If you cannot make it to Kingston, we hope you will call in to the conference line set up for the event.

Q&A Podcasts

The CCIL has also begun a series of Q&A podcasts between CCIL Past-President Craig Forcese and notable international law practitioners. These practitioners speak about their experiences and how they found themselves where they are in international law. The podcasts will be accessible soon.

Social Media and Members Only Website

We have also begun to provide more information more frequently through our website, [Facebook](#), [Twitter](#), and [LinkedIn](#). Please check us out regularly through your preferred method. Note also that our Members Only portion of the website is up and expanding. If you are a Member of the CCIL and have not yet received your login information to the Members Only section, please contact Silvie at manager@ccil-ccdi.ca.

More events and activities are on the horizon. I am confident that, together with your ideas and participation, we can increase understanding and discussion of international law in Canada.

Looking forward to hearing from you,
Robert Brookfield
President

CONFÉRENCE ANNUELLE 2013 DU CCDI 2013 CCIL ANNUAL CONFERENCE

Acteurs contemporains et leurs actions: regard nouveau sur la formation du droit international Du 14 au 16 novembre | Ottawa, Canada

La conférence du CCDI de cette année discutera du processus de formation du droit international en 2013 et de qui contribue à celui-ci.

Aujourd'hui, le droit international est de plus en plus façonné par des actions et des acteurs qui, traditionnellement, n'étaient pas considérés comme des sources du droit international. Nous pouvons penser notamment aux codes volontaires de conduite conçus par des entreprises agissant de concert, aux recommandations en matière de droits de la personne développées par des organisations non gouvernementales soutenues par des individus de nombreux pays, et aux interactions entre organisations internationales dont les adhésions ne sont pas limitées aux États.

L'impact croissant des actions de ces «nouveaux» acteurs sur la scène internationale pourrait suggérer qu'une nouvelle conception des sources du droit international est de mise. Ou peut-être pas. La conférence explorera cette question à partir d'une variété de points de vue, y compris une étude concrète des nombreux types d'acteurs sur la scène juridique internationale et des activités dans lesquelles ils sont engagés.

Contemporary Actors and their Actions: A New Look at the Formation of International Law November 14 to 16 | Ottawa, Canada

This year's CCIL conference will discuss how international law is formed in 2013 and who contributes to its formation.

International law today draws more on actions and actors that traditionally were not seen as sources of international law. Examples include voluntary codes of corporate conduct established by corporations acting together, human rights guidance developed by non-governmental organizations supported by individuals in many countries, and interactions between international organizations whose memberships are not limited to states.

The growing impact of these "new" actors' actions on the international stage might suggest that a radical re-thinking of the sources of international law is in order, or perhaps not. The conference will explore that question from a variety of perspectives, including a concrete study of the many types of entities active on the international legal arena and the activities in which they are engaged.

FEATURED ARTICLES

Investment Treaty Arbitration: Legal Issues and Consequences of Canada's ratification of the ICSID Convention

Dieudonné Édouard Onguene Onana

This is a summary of Mr. Onana's presentation from the CCIL's Half-Day Conference on International Investment Law, held on February 8, 2013.

The ICSID Convention was signed in 2006 and Canada passed federal ratifying legislation in 2008. Though Canada is already close to ratifying this Convention, one may question the importance and the effects of this future ratification for our country.

[Read more...](#)

Le faux positif, la responsabilité de l'État et la question d'immunité : l'étude de cas de la Colombie

Jeiran Rahmanian

Le faux positif est la traduction littérale d'un mot espagnol : falsos positivos, utilisé après certains scandales pendant les guerres civiles en Amérique latine, notamment en Colombie. Dans une situation de faux positif, les victimes sont tuées par les membres de l'armée. La scène est ensuite maquillée pour faire croire que les victimes ont été tuées légitimement au combat. Les victimes sont souvent photographiées portant un uniforme de la guérilla, et tenant un fusil ou une grenade. Elles sont par la suite enterrées anonymement dans des fosses communes, et les tueurs sont récompensés pour les résultats obtenus dans la lutte contre les guérillas. L'exemple le plus médiatisé de ce phénomène est le massacre de jeunes hommes de Soacha, en 2008. Dans ce cas, l'armée colombienne est arrivée à Soacha, une ville populaire de la banlieue de Bogota, le 20 novembre 2008. Elle a ensuite enlevé 11 jeunes, les a assassinés et les a ensuite fait passer pour des terroristes. Leurs corps ont été retrouvés criblés de balles.

[En savoir plus...](#)

Why the EU Seal Products Ban Does Not Violate International Trade Law

Robert Howse, Joanna Langille and Katie Sykes

In 2009, the European Union (EU) banned the importation of seal products, following several years of scientific analysis and public consultation. Canada, one of the world's largest producers of seal products, has challenged the EU's measure at the World Trade Organization (WTO), along with Norway, another sealing country. Canada's challenge is referred to here as the Seal Products case. The hearings in the case are taking place at the WTO in Geneva at the time of writing (the week of February 18).

The *Seal Products* case highlights an important issue: how does the sovereign prerogative of WTO members to adopt legislation based on moral beliefs interact with their obligations under WTO law?

[Read more...](#)

International Law Lessons from Intervention in Afghanistan *Jasteena Dhillon*

This article proposes to examine the growing application of just post bellum into the context of war and peace is the key to developing a way to look at into how armed conflict, intervention and peace-making (or conflict termination) and the transition (stabilisation and peace-building) are being understood and implemented by states and now more and more non-state actors globally.

It is clear from academic inquiry into this and also from practical experience I have had working in Bosnia, Afghanistan, Iraq and Sudan on behalf of international organisations in contexts of armed conflict transitioning to stable peace that there do exist principles/rules/approaches that are employed to govern the conduct of parties in the post-conflict. But it is not a cohesive well understood and accepted set of principles by the stakeholders involved in post conflict development.

[Read more...](#)

A winged messenger is brought to earth: The Minamata Convention on Mercury *JJP Smith*

In the modern era mercury has been an important element (and metal) for industrial development. The twentieth century also revealed it to be an environmental pollutant and harmful neurotoxin. Naturally occurring at relatively low concentrations, mercury is a difficult substance to regulate in its environmental release, human exposure and elimination. These difficulties are compounded by widespread reliance on the substance together with the costs of removal and mitigation in use, and the problem of its far-reaching atmospheric transport. The challenges that mercury pollution present have demanded a level of international cooperation consistent with the most harmful airborne pollutants of the age including ozone depleting substances, acid rain and persistent organic chemicals. The *Minamata Convention on Mercury* goes a considerable distance to meeting these challenges.

[Read more...](#)

ESSAY

Is There a Global Duty of International Development? Considering Extraterritorial Obligations to Provide International Assistance Under International Human Rights Law

Christina Beninger

ABSTRACT: As globalization results in an increasingly interconnected and interdependent international system, the concept of extraterritorial obligations on states in relation to international development cooperation and human rights protection is receiving growing attention. The concept undoubtedly remains controversial, as developed states in particular resist the proposition that they have legal obligations to provide international development assistance or to protect the human rights of those outside their borders. Such an interpretation, generally favored by developing countries in the global South, tends to be viewed as a challenge to the fundamental principles of sovereignty and territorial independence. Yet, globally, developed states of the global North are contributing international aid and assistance, often directly linked with human rights objectives, at an unprecedented rate, even in the face of the worldwide economic crisis.

Although some states, including Canada, may characterize such contributions as strictly voluntary and driven by a moral duty, the international human rights legal regime suggests that this duty extends beyond moral imperatives to constitute an international legal obligation.

Overall the law and the developing literature indicate that states do have international obligations to provide "international assistance and cooperation" to promote development beyond their own borders. This duty is tied to the emerging concept of extraterritorial obligations to promote and protect human rights, particularly socio-economic rights such as the right to water, food and health, which are so closely linked to development. These obligations are rooted in international treaties including the Charter of the United Nations and the International Covenant on Economic, Social and Cultural Rights (ICESCR), and further elaborated in United Nations declarations including the Declaration on the Right to Development and the Millennium Declaration, as well as commentary of international treaty bodies and leading experts. This essay discusses this legal framework and explores the emerging discourse on the nature and scope of extraterritorial obligations on states under international human rights law (IHRL) in the context of international development cooperation and human rights protection, although recognizing that the debate is still developing and the parameters of international assistance obligations are by no means settled. The essay begins by outlining the legal framework underlying the duty to provide international assistance and cooperation, and the related duty to protect human rights, especially socio-economic rights, before turning to a discussion of the nature and scope of these legal duties as articulated to date by international instruments, treaty bodies and expert commentary. It concludes with some final thoughts on the practical impact of this growing debate and expanding legal regime.

[Read more...](#)

COMMUNITY EVENTS OF INTEREST

CCIL Jessup Mini-Conference

As many of you know, last year in cooperation with the Jessup, the CCIL organized a successful half-day conference. We will do so again this year. **The mini-conference will take place on Thursday, March 7, 2013 from 13:00 to 17:30 at the Ambassador Conference Resort in Kingston, Ontario**, the same location as the Jessup Competition. Advance registration is required and the conference is free for current CCIL members. Non-members may also register and pay the cost of membership (Regular \$85 or Student \$25). Places are limited and attendees will be accepted at a first-come first-served basis when registered online. [To view the preliminary program and to register.](#)

Summer School on International Humanitarian Law (IHL)

The University of Ottawa and the Canadian Red Cross are pleased to invite you to the 7th edition of the Summer School on International Humanitarian Law (IHL) which will take place at the University of Ottawa from June 2nd to June 7th 2013. The goal of this course is to offer students and professionals the fundamentals of IHL and for the opportunity to apply this knowledge through realistic case studies. The organizers welcome applications from students, academics, government employees, NGO and IO staff, journalists and those with an interest in learning about IHL. Preference will be given to participants who have had exposure to the application or theory of international humanitarian law, international human rights law or humanitarian work. Please note that the course is offered in both French and English. **Application deadline: March 15, 2013.** [For more information and for application form.](#)

Ottawa: Beyond the Border Action Plan

Luc Portelance, President Canada Border Services Agency, will discuss "Ottawa: Beyond the Border Action Plan: The Changing Landscape of

Border Management." Presented by the Economic Club of Canada. March 7, 11:45 a.m.-1:30 p.m., \$79. Fairmont Chateau Laurier, 1 Rideau St., Ottawa, Ont. www.economicclub.ca

Canada-China: Opportunities in Transition

CIC-National Capital Branch is hosting a conference on Canada-China: Opportunities in Transition. Panelists include Lu Shumin, former ambassador to Canada, Peter Harder, President of the Canada-China Business Council and Yuen Pao Woo, President and CEO of the Asia Pacific Foundation of Canada. March 22, 8:30 a.m.-6 p.m. Fairmont Chateau Laurier Hotel, 1 Rideau St., Ottawa, Ont. 613-903-4011 or ottawa@opencanada.org

Why the West Must Support Mali and the African Union

CIC-Saskatoon Branch presents Kyle Matthews, Will to Intervene Project, who will discuss "Why the West Must Support Mali and the African Union." March 26, 6-9:30 p.m., \$25, presentation only, free. Saskatoon Club, 417-21st St. E. Contact: Tanis and Leah at 306-956-7654 or saskatoon@opencanada.org

Climate Change, Economic Transformation and the Governing of Subjects

CIPS at the University of Ottawa presents a talk on "Climate Change, Economic Transformation and the Governing of Subjects" with speakers Matthew Paterson, University of Ottawa and Johannes Stripple, Lund University. April 10, 12 p.m. Free. Room 6032, Social Sciences Bldg., 120 University Ave., Ottawa, Ont. <http://cips.uottawa.ca/event/>

2013 International Law Conference: Emerging Issues in International Corporate Social Responsibility, Corruption and Compliance

Canadian Bar Association
Friday, June 7, 2013
Marriott Hotel, Ottawa, ON
http://www.cba.org/pd/details_en.aspx?id=na_intl13

IN MEMORIAM - Donald J. Fleming

With great sadness we advise that Professor Donald J. Fleming, a former President of CCIL from 2004 to 2006, passed away on February 9, 2013. We know that he will be missed by many of you.

Don was a committed supporter of CCIL and worked hard to fulfill its mandate and grow its influence and utility. Prior to becoming President, he chaired the planning committee for the annual meeting in 1985, and contributed his energy and foresight on the Executive Committee in 1984-94 (as Vice-President in 1990-92) and on the Board of Directors since 1995. He promoted a research role for the Council beginning with a panel discussion he organized on the subject at the annual meeting in 1990, and co-authored a thoughtful presentation on *The Future of the CCIL* at the annual meeting in 1998.

[Read more about this remarkable individual...](#)

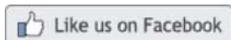


If you would like to get involved with and/or sponsor the CCIL Annual Conference, please feel free to contact us and [read our Sponsorship Package](#).

Si vous désirez vous impliquer dans la Conférence annuelle du CCDI, ou en devenir commanditaire, n'hésitez-pas de nous contacter. [Cliquez ici pour plus d'infos concernant la commandite](#).

Contact Us | Pour nous joindre :
CCIL | CCDI
275 rue Bay Street, Ottawa ON K1R 5Z5

Tel | Tél. : 613-235-0442
Fax | Téléc. : 613-238-3805



www.ccil-ccdi.ca

CCIL-CCDI, 275 Bay Street, Ottawa, Ontario K1R 5Z5 Canada

[SafeUnsubscribe™ {recipient's email}](#).

[Forward this email](#) | [Update Profile](#) | [Customer Contact Data Notice](#)

Sent by manager@ccil-ccdi.ca powered by



Try email marketing for free today!