

INTERNATIONAL ASSOCIATION OF REFUGEE LAW JUDGES (IARLJ)

**11th IARLJ World Conference, Athens, Greece
November 29th – December 1, 2017**

INTER-CONFERENCE WORKING PARTIES PROCESS

COORDINATOR'S REPORT Dr. James C. Simeon, LL.M

This is the IARLJ Inter-Conference Working Parties Process Coordinator's Report that covers the period from our last IARLJ World Conference in Tunis, Tunisia, in October 23rd to 25th, 2014, to the Athens IARLJ World Conference that will be held from November 29th to December 1st, 2017. The activities of the IARLJ Working Parties has varied over this time given the intense activities of the Association, as a whole, with the number of Regional Chapter Conferences and planning for the current World Conference.¹ The number of IARLJ Working Parties has not changed, although there has been a change in those who serve on the Working Parties, including, Rapporteurs and Associate Rapporteurs. Working Parties are most active in the lead up to an IARLJ World Conference, at the World Conference itself, and for a number of months thereafter. Unless there are particular Regional Chapter Conferences that the IARLJ Working Parties have been invited to participate in directly, then, the period between World Conference tends to be less active, as a general rule. It is the responsibility of all members of the IARLJ Inter-Conference Working Party Process to stay engaged with their Working Party members and do their ongoing research into their issues and concerns dealing with international refugee law.

This report is presented in four sections. The first looks at the composition of the IARLJ Working Parties and calls on those IARLJ Members who are interested to join one of the Working Parties and stay actively involved. The second section considers the meetings that were held for Rapporteurs and Associate Rapporteurs since the last IARLJ World Conference in Tunis in October 2014. The third section looks at the challenges confronting the IARLJ Working Parties and identifies four areas that need to be addressed. The fifth and last section offers a number of conclusions for the future of the IARLJ Inter-Conference Working Party Process.

The IARLJ Working Parties and Their Composition

There are currently 10 active IARLJ Working Parties that are comprised of a Rapporteur and Associate Rapporteurs and Members and Associate Members of the IARLJ. Each of the IARLJ Working Parties and their Rapporteur and Associate Rapporteurs are listed below:

1. Human Rights Nexus Working Party

¹ Last academic year, 2016-2017, I completed an LL.M in International Law at the University of Cambridge, which, of course, limited the time that I could devote personally or otherwise to the IARLJ Inter-Conference Working Parties Process.

Rapporteur: Deborah Morrish, Refugee Appeal Division, Immigration and Refugee Board of Canada (IRB), deborah.morrish@irb-cisr.gc.ca.

Associate Rapporteur: Rana Khan, Legal Counsel, UNHCR Canada, khanr@unhcr.org.

2. Membership in a Particular Social Group

Rapporteur: Hilikka C. Becker, International Protection Appeals Tribunal, Ireland, HCBecker@protectionappeals.ie.

Associate Rapporteur: vacant

3. Expert Evidence

Rapporteur: Geoffrey Care, Chairperson of the Eurasyllum International Advisory Board, founding President and life member of the IARLJ, former Chairman of the Immigration Appeal Tribunal, United Kingdom, and Justice of the High Court of Zambia, rgc1930@btinternet.com.

Associate Rapporteur: Professor Rebecca M. M. Wallace, M.A., LL.B., Ph.D., formerly Judge of the First-Tier Tribunal, Research Professor of International Human Rights and Justice, The Robert Gordon University, Aberdeen, Scotland, rebecca.wallace@rgu.ac.uk.

4. Extraterritorial Processing

Rapporteur: Linda Kirk, Refugee Review Tribunal, Australia, linda.kirk@gmail.com.

Associate Rapporteur: vacant

5. Vulnerable Persons

Rapporteur: Judge Kyrie James, Immigration and Asylum Chambers, United Kingdom, kyrie@ibnetworks.net.

Associate Rapporteurs: vacant

6. Asylum Procedures

Rapporteur: Judge Judith Gleeson, Upper Tribunal, Immigration and Asylum Chambers, United Kingdom, UpperTribunalJudge.Gleeson@ejudiciary.net

Associate Rapporteur: Justice Jacek Chlebny, President, Regional Administrative Court in Warsaw, and Justice, Supreme Administrative Court, Poland, jchlebny@nsa.gov.pl

7. Country of Origin Information and Country Guidance

Rapporteur: Justice Professor Boštjan Zalar, High Court Judge at the Administrative Court of the Republic of Slovenia, Researcher at the University of Ljubljana, Slovenia, bostjan.zalar@sodisce.si.

Co-Rapporteur: Judge Bernard Dawson, Upper Tribunal, Immigration and Asylum Chambers, United Kingdom, UpperTribunalJudge.Dawson@ejudiciary.net

Associate Rapporteur: Mark Symes, Part-Time Member, First-Tier Tribunal Immigration and Asylum Chamber, United Kingdom; Barrister, Garden Court Chambers; Fellow of Refugee Law Initiative, School of Advanced Study, University of London, marks@gclaw.co.uk

8. Exclusion Clauses

Rapporteur: Professor Satvinder Juss, School of Law, King's College London, Part-Time Member Asylum and Immigration Tribunal, United Kingdom, satvinder.juss@kcl.ac.uk.

Associate Rapporteur: Professor Geoff Gilbert, School of Law, University of Essex, Director of LLM in International Human Rights and Humanitarian Law geoff@essex.ac.uk.

9. Statelessness

Rapporteur: Martin Treadwell, Deputy Chair, Immigration and Protection Tribunal, New Zealand, martin.treadwell@justice.govt.nz.

Associate Rapporteur: Anver Jeevanjee, Member (retired), Asylum and Immigration Tribunal, United Kingdom, anver.jeevanjee@virgin.net.

10. African Asylum Systems

Rapporteur: Professor Amor Boubakri, Faculty of Law, Economics and Politics, University of Sousse, Tunisia, mrbbkr04@gmail.com

Associate Rapporteur: Justice Fred Ochieng, High Court of Kenya, fredandagoochieng@gmail.com

From the above, it is evident that at present there are three vacant positions at the Associate Rapporteur position that need to be filled: Membership in a Particular Social Group; Extraterritorial Processing; and Vulnerable Persons Working Parties. We would, of course, welcome any expressions of interest to fill these current vacant Associate Rapporteur positions.

Membership is always a challenge for the IARLJ Working Parties, given the limited time that members of the judiciary have for other responsibilities, Accordingly, all members of the IARLJ

who may be interested in participating in a IARLJ Working Party are requested to step forward and contact the Rapporteur of the IARLJ Working Party they might be interested in joining. The amount of time required to participate in an IARLJ Working Party is minimal and, as noted above, peaks during those periods leading up to an IARLJ World Conference. The rewards of having the opportunity to work with judicial colleagues from all over the globe on a specific legal issue in international refugee law cannot be replicated or substituted with anything else.

Meetings of the IARLJ Working Parties Rapporteurs and Associate Rapporteurs

The Rapporteurs and Associate Rapporteurs hold regular conference calls between IARLJ World Conferences to help to coordinate their activities from one World Conference to the next. Between IARLJ World Conferences Working Parties have engaged in a number of different activities such as holding their own symposiums and workshops to participating in Roundtables and panel sessions at IARLJ Regional Chapter Conferences to conducting surveys of IARLJ Members and developing and strengthening their virtual networks on their specialized international refugee law topics. Some of the most successful Working Parties in this regard have been the Country of Origin and Country Guidance Working Party; the Expert Evidence Working Party; the Asylum Procedures Working Party; and, the Human Rights Nexus Working Party. The last several years have been no different with these same Working Parties coming to the fore with their ongoing work on various issues, substantive and procedural, on international refugee law.

In the last three years, the IARLJ Working Party Rapporteurs and Associate Rapporteurs have held at least six conference calls. We have now moved on to doing our conference calls *via* Skype given the persistent difficulties that some Rapporteurs and Associate Rapporteurs have had in getting connected to the teleconference calls such as not accounting for time zone differences, and so on. For some, the switch to Skype has not been able, sadly, to resolve their difficulties in connecting to our calls. Of more serious consideration is the rather bellicose nature of some participants' complaints and, in particular, their decidedly 'non-judicial temperament,' for some persistent reason(s), of not being able to participate in our conference calls due to their technical difficulties. We will continue to experiment with trying to improve how we are able to conduct our conference calls in the most cost effective ways possible.

The IARLJ Working Party Rapporteur and Associate Rapporteur conference calls were able to resolve a number of ongoing issues and concerns with respect to the Inter-Conference Working Party Process. Most effectively, the conference calls allowed Rapporteurs and Associate Rapporteurs to prepare properly for the forthcoming Athens IARLJ World Conference. It was very rewarding to see how much progress IARLJ Working Parties were making in trying to address various issues in international refugee law. As of this point, there at least four IARLJ Working Parties that will have full conference papers and reports to present at the IARLJ Athens World Conference. This is most exciting and encouraging for not only the IARLJ Working Parties meetings but for their reports to the IARLJ Members during the Working Party plenary session.

The Challenges for the Inter-Conference Working Party Process

There are a number of challenges confronting the IARLJ Inter-Conference Working Party Process. Four of these are outlined below and are likely the most salient at the time being:

The Publication of Working Party Conference Papers and Reports

For a number of years the question that plagued the IARLJ Executive was whether the IARLJ Working Party Conference Papers and Reports should be published in the biennial IARLJ World Conference Proceedings. For some years, this was not a concern. However, over the last number of World Conference there were concerns expressed over the quality, length, and the cost of including the IARLJ Working Party materials in the IARLJ World Conference Proceedings. This is, obviously, of great concern to the Working Parties given their time, energies and effort in producing their World Conference contributions which are an integral part of these conferences. This has resulted in some IARLJ Working Parties finding alternative venues for their work such as academic journal publications, professional law journals and publications, and other publication fora. This has not been an issue or concern for the IARLJ Executive.

In sum, the position of the IARLJ Working Parties is that all IARLJ Working Party contributions for IARLJ World Conferences should be included in any IARLJ World Conference publications. Hopefully, this will be taken up by the IARLJ Executive and adopted as a standard practice for its IARLJ World Conference publications.

Integrating IARLJ Working Party Contributions into the IARLJ World Conferences

The IARLJ Working Parties are always mindful of the forthcoming IARLJ World Conferences and make an effort, where possible, of integrating their conference papers and reports so that they are better integrated and flow naturally into the theme or themes of the IARLJ World Conferences. However, this requires sufficient advance notice to allow the IARLJ Working Parties to consider the next IARLJ World Conference theme to determine its relevance to their ongoing working on their subject matter in international refugee law. One way of resolving this is to have a number of biennial IARLJ World Conference venues set well in advance so that the IARLJ Working Parties can take into consideration the forthcoming World Conference themes. There would be an additional benefit to the Association as a whole having its next several biennial IARLJ World Conference lined up which would allow members sufficient notice to plan their attendance well in advance. It would also allow the host countries the time needed to be able to make all of the arrangements necessary for hosting a World Conference of this stature and nature.

Sustaining the Membership on Each of the IARLJ Working Parties

One of the ongoing challenges facing each of the IARLJ Working Parties is maintaining an active membership base. All experienced IARLJ Working Party Rapporteur and Associate

Rapporteurs know that interest in their Working Parties peaks during IARLJ World Conferences and wanes between World Conferences. So, logically, the best time for recruiting IARLJ members for their Working Parties is at the IARLJ World Conferences. Thereafter, it becomes that much more difficult to do. Accordingly, IARLJ Working Party Rapporteurs and Associate Rapporteurs are reminded to recruit new members for their Working Party at IARLJ World Conferences.

It should be underscored that ‘benign neglect’ is no substitute for sustained activity by IARLJ Working Party Rapporteurs and Associate Rapporteurs with their Working Party members. Interest will wax and wane with the IARLJ Working Parties, which is only natural, but, it is largely up to the Rapporteurs and Associate Rapporteurs to keep their members actively engaged in their Working Party. In this regard, membership recruitment should be done on an ongoing basis.

The IARLJ Working Parties Involvement in IARLJ Training Initiatives

From time-to-time, the IARLJ Working Parties have been approached as possible partners for training initiatives. It should be noted that, essentially, IARLJ Working Parties serve as research units and not instructional units. However, this does not preclude them from taking on instructional role whenever it is warranted. This should not be done, however, unless fully endorsed by the IARLJ Executive and only in the appropriate situation and circumstances. For instance, when the IARLJ Working Party develops a set of recommendations that have been fully endorsed by the IARLJ Executive, then, the Working Party might consider presenting training or workshops to publicize and to promote these new IARLJ recommendations or guidelines.

The “rule of thumb” for IARLJ Working Parties taking on any instructional roles can be broken down as follows: (1) IARLJ Working Parties can play an instructional role in the promotion of their own work such as recommendations for a best practice that should be more widely adopted; (2) The IARLJ Executive must approve of the IARLJ Working Parties recommendations, guidelines, etc., before it can undertake any instructional role with respect to its work; (3) IARLJ Working Parties should not take on instructional or teaching roles beyond their own prepared materials that have been duly endorsed by the IARLJ Executive.

Conclusions

From what is noted above, it is evident that the IARLJ Inter-Conference Working Party Process is one of the most dynamic and interesting ongoing initiatives within the IARLJ as a professional association for refugee law judges. It not only has members of the judiciary from all parts of the world working on some of the most relevant and significant legal issues in international refugee

law but it provides a unprecedented opportunity for jurists and legal scholars in the field to interact and to produce very significant work on international refugee law.

The challenges confronting the IARLJ Inter-Conference Working Party Process can be met and overcome. They can be summarized as follows:

1. IARLJ Working Party contributions should be included in the IARLJ World Conference Proceedings publications.
2. To ensure that IARLJ Working Parties conference papers and reports are relevant to the biennial IARLJ World Conferences, then, the venues and themes of future World Conference need to be determined well in advance. This would be in the best interests of everyone involved within the IARLJ and, especially, for those who host IARLJ World Conferences.
3. Sustaining the membership of IARLJ Working Parties needs to be assumed by the Rapporteurs and Associate Rapporteurs of each Working Party. Rapporteurs and Associate Rapporteurs need to devise and implement their own strategies for sustaining their Working Party's membership base.
4. IARLJ Working Parties can be involved in instruction or training provided it covers their own work that, for instance, their own specific set of recommendations or guidelines for IARLJ Members. All of which, of course, will require the IARLJ Executives' consent and endorsement.

Over the course of the next several years, we look forward to taking on these four challenges and meeting them within the IARLJ Intern-Conference Parties Process.

Dr. James C. Simeon, LL.M

November 25, 2017