

## Irish Centre for Human Rights

Irish Centre for Human  
 Rights:  
[www.nuigalway.ie/  
 human\\_rights](http://www.nuigalway.ie/human_rights)

### Coming Events at the Irish Centre for Human Rights:

#### Lunch time Seminars

##### October 26:

“Holding armed groups to account: some dilemmas from the South African Truth and Reconciliation Commission”

Speaker: Janet Cherry, Lecturer, School of Social Sciences and Humanities, University of Port Elizabeth, South Africa

##### November 8:

“Peacekeeping—When does a duty to prevent violations of international law by parties to the conflict, arise?”

Speaker: Mr. Ray Murphy, Lecturer, Irish Centre for Human Rights

#### Summer Courses 2002

June 9—15:  
International Minority Rights  
Law: Indigenous peoples

July 21—27:  
International Criminal Court

### IRELAND AND THE INTERNATIONAL CRIMINAL COURT—THE NEXT STEPS?

The referendum on the International Criminal Court paves the way for ratification by Ireland. But there is still much work to be done.

Although the referendum authorises the State to ratify the Rome Statute of the International Criminal Court, Ireland must ensure that its laws enable it to cooperate fully with the Court. Thus, ratification is really conditional upon adoption of further legislation in the field of criminal law.

Here, Ireland lags well behind such “like-minded” States such as Canada and the United Kingdom, both of which have enacted complex legislation within the past year in order to facilitate ratification of the Rome Statute.

Such legislation enables Courts to comply fully with requests for cooperation and surrender by the Court. Moreover, enabling legislation should also incorporate the definitions of the core crimes of genocide, crimes against humanity and war crimes within Irish law.

Ideally, the legislation should also provide for the exercise of universal jurisdiction by Ireland over these crimes. This would mean that Irish courts would be able to prosecute offences even if committed outside of Ireland. For example, they



Prof. William A. Schabas (here centre right) addressed an international workshop on crimes against humanity in Jakarta on June 20, 2001

would be able to prosecute Pinochet for torture and Milosevic for crimes against humanity, something they cannot now do. Indeed, although the Court will not be able to prosecute retrospectively, UN High Commissioner on Human Rights, Ms. Mary Robinson, has said that, had it been in existence, it could have prosecuted those responsible for the attacks in the US on September 11, 2001. (Irish Times Article “Robinson urges State to ratify court for war crimes”, Monday September 24, 2001)

*(Continued on page 5)*

### ICC SUMMER COURSE SUCCESS

Following on from the success of last year’s first summer course on the International Criminal Court, this one-week course (July 28-August 4, 2001) again offered university students, legal professionals, NGO activists and public servants a detailed overview of the historical origins, legal basis, structure and future operations of the International Criminal Court. It was given by a faculty of specialists, many of whom participated in

the drafting of the Statute. The speakers included Judge Sharon Williams, Prof. Sylvia Fernandez, Ambassador Philippe Kirsch, Mr. Fabricio Guariglia and Prof. William A. Schabas. The course covered, among other issues, complementarity, the rights of the accused and State cooperation. The course was delivered by the Irish Centre for Human Rights and will be held again next July.

## LLM PROGRAM GOES FROM STRENGTH TO STRENGTH

INTERNSHIP  
PROGRAM  
ATTRACTS TOP LAW  
STUDENTS FROM  
EUROPE AND  
NORTH AMERICA



Mr. Ray Murphy and Prof. William A. Schabas (far left) with LLM students 2000-2001.

In the first year of its inception the LLM programme in International Human Rights Law was undertaken by 26 students, 6 of whom were registered part-time. The students, from a variety of national backgrounds and experiences, were welcomed at the Centre in September 2000 and then attended classes and presented papers towards the attainment of 40 (of 60) credits in the two taught semesters running from September to December and January to May.

The standard of submissions was generally high, as externally validated by Professor David Wippman (Cornell University). Towards the final component of their assessment the students are currently engaged in intensive research towards the submission of a 20,000 word dissertation worth 20 credits on a topic of their choice. The rigorous nature of the assessment and the high standard of academic education has already begun to create a reputation for the Centre as best seen in the volume and quality of the new round of applications for the next academic year. The Admissions Committee for this year undertook the difficult task of selecting the 2001-2002 class from amongst a pool of highly qualified candidates from all over the world. The new class arrived at the Centre in the first week of September and has already begun its first semester courses.

### INTERNSHIP PROGRAM ATTRACTS TOP LAW STUDENTS FROM EUROPE AND NORTH AMERICA

During the summer period the Centre employed six interns from various law faculties in Europe and North America working on both administrative and research projects.

They were engaged in a wide range of activities from being involved in the organisation of the summer schools to carrying out research on issues related to international criminal law and humanitarian law.

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### *Immigration Policy*

*“The submission highlights some of the main concerns regarding the treatment of immigrants in Ireland”*

### LLM students work with Belfast NGO

In June 2001 two LLM students, David Keane and Daniel Aguirre, undertook fieldwork in Belfast as part of their research for the Irish Centre for Human Rights. They worked for Relatives for Justice, a Belfast based NGO that examines cases of disputed killings.

They were assigned to Springhill in West Belfast where they interviewed witnesses to a shooting that occurred 30 years ago. The results were compiled into a report which was returned to Relatives for Justice.

### IMMIGRATION POLICY IN IRELAND—TACKLING THE ISSUES

The Irish Centre for Human Rights has submitted a paper, entitled “Human Rights and Immigration Policy”, to the Minister for Justice, Equality and Law Reform, Mr. John O’ Donoghue. This paper will form part of his consultation on Immigration Law.

The submission highlights some of the main concerns regarding the treatment of immigrants in Ireland, from the standpoint of Ireland’s obligations under international law. A copy of the document can be downloaded from [www.nuigalway.ie/human\\_rights](http://www.nuigalway.ie/human_rights).

## HUMAN RIGHTS AND THE REACTION TO TERRORISM

*The following statement was issued by The Irish Centre for Human Rights, in reaction to the events of September 11, 2001.*

The terrorist acts of September 11 may well have been an attack on democracy, as George Bush, Tony Blair and others asserted, but they were no threat to democracy. Democratic regimes have survived far worse. It is the reaction to terrorism that destroys democracies.

Modern democracies have perfectly adequate justice systems for dealing with terrorists. We track them down, catch them, bring them to trial and impose fit punishment. That is what the US and the UK did with those responsible for the Lockerbie crash, and for the embassy bombings in Nairobi and Dar es Salaam. It is what the UN is doing for those accused of genocide and crimes against humanity in the former Yugoslavia and Rwanda.

How much more healthy it is for democracy that Milosevic be judged by an international court rather than murdered by a cruise missile aimed at his home. As for the two Lockerbie defendants, one was acquitted by Scottish judges earlier this year. Had the advocates of assassination and summary execution prevailed in that case, an innocent man would have been killed in the name of democracy's war on terrorism.

Some American politicians now argue that criminal justice is inadequate because the events of September 11 were an "act of war". But according to international law, we must know what State committed it. A group of individuals, even numbering in the hundreds, cannot commit an "act of war".

Perhaps those who harbour terrorists may themselves be accomplices in an "act of war". But let us remember the last time this bold claim was made, in 1914, when Austria-Hungary declared war on Serbia because a Serb nationalist had assassinated its archduke. It unleashed a cascade of belligerent declarations justified by an earlier equivalent of article 5 of the NATO treaty.

We now look back in horror and

bewilderment at how an overreaction to terrorism, in the name of punishment and retribution, provoked a chain of events that ultimately slaughtered an entire generation of European youth.

The anger and even the thirst for vengeance of the victims and their families can well be understood. But any act of reprisal that takes civilian casualties or is directed against civilian objects is quite simply forbidden by international law. It is a war crime. To the extent reprisals are allowed at all, they must target purely military objectives.

The US seeks sympathy for the thousands of innocent victims of this tragedy, and they have it. Our hearts have been broken to see the agony of the bereaved relatives, and an unbearably sad hole in a beloved skyline. But international solidarity should not become a pretext for promoting a US political agenda that has little to do with catching the perpetrators and preventing future crimes.

Above all, if measures are to be taken in the name of protecting democracy, there can be no room for double standards. Only two years ago, in another context, the US argued that a civilian office building in Belgrade was a legitimate military target because it housed a television station. The US justified the resulting deaths of civilian office workers as "collateral damage". If those responsible for attacking the World Trade Centre are ever brought to court, they may invoke this precedent. The scale of the killings was different in Belgrade, but the principle is barely distinguishable.

Let us recall, again and again, that civilians must be spared in any conflict. The right to life is the most fundamental of all human rights. The right to life of thousands of innocent civilians in New York City and Washington has been egregiously violated. But that same right also belongs without exception to civilians in Belgrade, Baghdad and Kabul.

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## A DAY OF CELEBRATION AT NUI, GALWAY AS PROF. CHERIF BASSIOUNI RECEIVES HONOURARY DOCTORATE



From left to right: Prof. William A. Schabas, Prof. Cherif Bassiouni and Mr. Ray Murphy.

*Introductory address for Professor Cherif Bassiouni for the Degree of LLD, honoris causa, National University of Ireland, Galway, June 29, 2001, by Professor William A. Schabas.*

A Sheansailéir, agus a mhuintir na hOllscoile. In 1992, following the outbreak of armed conflict in the Balkans, the spectre of war crimes and atrocities unimagined since the fall of the Nazi regime returned to Europe. After considerable wavering and hesitation, the United Nations Security Council agreed to set up a Commission of Experts to investigate war crimes, appointing Professor Cherif Bassiouni as one of the members. But to ensure it would be ineffective, the Council starved the new Commission of resources.

With the resignation of its first chair, Professor Bassiouni took over the direction of the Commission. He found major funding through private sources. Soon, the Commission was investigating atrocities on the ground in the former Yugoslavia, unearthing mass graves, collecting evidence and, in a general sense, preparing the way for prosecution. The work of the Commission paved the way for the establishment of the International Criminal Tribunal for the former Yugoslavia. Many of the former Yugoslavia's worst war criminals – now in jail under international supervision – must regret the day the Security Council named Cherif Bassiouni to its Commission of Experts.

The story is recounted in a recent

book by French journalist Pierre Hazan. He describes how the United Kingdom was uncomfortable about the appointment of an “activist” like Bassiouni. The British were afraid he would be “uncontrollable”, and they were right. His penchant for action and results was a source of particular irritation to the cautious lawyers within the United Nations system. According to Hazan, “The conflict between Bassiouni and the Office of Legal Affairs of the UN sharpened when, with a staff composed of fifty volunteers, students and lawyers, and \$800,000 given by the Soros Foundation and the MacArthur Foundation, Bassiouni set up, at DePaul University in Chicago, a computerised documentation centre for war crimes committed in the former Yugoslavia... To every objection raised by the United Nations, Bassiouni found an answer. He put the centre in a room with a security system, had his staff sign confidentiality undertakings, obtained the protection of the FBI and the Chicago police.” Hazan says that Secretary-General Boutros Boutros-Ghali never tried to stop Bassiouni from working, but that on a few occasions he told him to “calm down a bit”.

To academics, Cherif Bassiouni is best known for his advocacy of the creation of an international criminal court. For more than thirty years, and long before the idea became fashionable, he has written and lectured tirelessly on the subject. His books have outlined the procedures to be followed, defined the relevant crimes and, in a general sense, researched the complex international and criminal law issues involved in the establishment of such an institution. When the international community finally began to address the issue, in the 1990s, the principal references were the collected writings of Cherif Bassiouni. Naturally, then, Professor Bassiouni was also a decisive participant in the creation of the International Criminal Court, subject of the recent amendment to the Irish Constitution.

The Court's operations are expected to begin some time in the year 2002. At the 1998 Rome Diplomatic Conference, where the Statute of the International Criminal Court was adopted, Cherif Bassiouni chaired the sessions of the Drafting Committee, dazzling diplomats with his

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*“If there is one individual without whom it could be said that the International Criminal Court might not exist, that person would be Cherif Bassiouni”*

## CONFERENCE ON CAPITAL PUNISHMENT AND INTERNATIONAL HUMAN RIGHTS LAW



From left to right: Prof. William A. Schabas, Senator Robert Badinter and Prof. Emmanuel Decaux.

Leading international specialists on capital punishment met in Galway on September 21 for a two-day symposium on the abolition of the death penalty. The successful event was held under the auspices of the Irish Centre for Human Rights, National University of Ireland, Galway, and the Centre de Recherche sur les Droits de

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Ireland was the first country to submit the International Criminal Court to a popular consultation by referendum. The results are impressive, and show that the concept of international justice is something that has captured the public imagination.

But it is important that ratification of the Statute take place without much delay. In the aforementioned Irish Times Article, the High Commissioner states "I would urge Ireland to expediate the ratification of the Rome Treaty as an indication of its leadership at this time when it is taking over the presidency of the Security Council." The Court will become operational when sixty ratifications have been obtained.

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grasp of the legal issues as well as his mastery of several of the official languages of the United Nations. He had been, of course, an active participant throughout the four-year negotiation process, as vice-chair of the General Assembly's ad hoc Committee, which met in 1995, and as Vice-Chair of the Preparatory Committee from 1996 to 1998. As president of the International Institute of Higher Studies in Criminal Sciences, in Siracusa, Italy, Cherif Bassiouni also hosted, and financed, several of the important informal or inter-sessional meetings of those involved in drafting the Statute. If there is one individual without whom it

l'Homme, Université Panthéon-Assas Paris (II).

On the issue of international norms, the conference was addressed by Ms. Christine Cerna from the Inter-American Commission of Human Rights, Ms. Christine Chanet, a member of the UN Human Rights Committee and Dr. Markus Schmidt, Office of the High Commissioner for Human Rights. Other topics of the conference included—an analysis of the big cases, and a session on efforts being made towards the goal of universal abolition. The speakers who addressed this issues included: Mr. Jeroen Schokkenbroek, Mr. Peter Hodginson, Ms. Sandra Babcock, and Mr. Michael D. Higgins T.D. The conclusions of the conference were delivered by Senator Robert Badinter, one of France's leading Statesmen.

As of July 17, 2001, the third anniversary of adoption of the Statute, some thirty-six States had ratified.

At the rate Ireland's legislators are moving, the Court might well come into operation before Ireland is in a position to ratify. This would exclude Irish nationals from consideration as judges of the Court and for other important positions. Irish legislators need not reinvent the wheel.

A number of excellent model statutes have been prepared in other countries with similar legal systems, including Canada, New Zealand and the United Kingdom. The variety of draft legislation now available can be consulted on a website maintained by the Council of Europe: <http://www.legal.coe.int/criminal/icc/>

could be said that the International Criminal Court might not exist, that person would be Cherif Bassiouni.

Cherif Bassiouni has been a professor of law at DePaul University, in Chicago, since 1964, and he served there as dean of the law school from 1976 to 1988. He has been president of the International Human Rights Law Institute at DePaul University since 1990. He is also a non-resident professor of law at the University of Cairo. He is author of eighteen books and more than 200 articles, and editor of another thirty-eight volumes in the fields of international human rights and international criminal law.

*"The death penalty has nothing to do with the fight against terrorism... not only is it a moral defeat but moreover it generates new terrorists."*

Senator Robert Badinter  
September 22, 2001.

*"This gathering is absolutely remarkable ... Absolutely remarkable! What strikes me most is the academic quality of the communications and exchanges."*

Senator Robert Badinter  
September 22, 2001.

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## Law for Peacekeeping Missions Project to be Based at ICHR:

The Irish Centre for Human Rights is undertaking a project involving the preparation of codes of criminal law and criminal procedure for use by United Nations peacekeeping missions.

The project arises from proposals made in the "Brahimi report" on peacekeeping, issued in late 2000. The Washington-based United States Institute of Peace had provided the Irish Centre for Human Rights with a grant in support of the project, which will involve a series of expert meetings and several publications.

A PhD student enrolled at the Irish Centre for Human Rights, Clementine Olivier, is to assist Professor Schabas in coordinating the project.

This Bulletin is published by the Irish Centre for Human Rights, NUI, Galway.

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## NEW ARRIVALS TO THE CENTRE

Faustina Pereira, an Advocate at the Supreme Court of Bangladesh, has been awarded the Bank of Ireland Fellowship and will join us here at the Centre this Autumn. She will pursue research on the topic of an Asia Pacific Court of Human Rights: Arguing beyond Universality and Cultural Relativism.

Livio Zilli has spent the last 7 years

working for Amnesty International Secretariat in London. Mr. Zilli will join us at the Centre this September where he will work as the Assistant to Hina Jilani from Pakistan, who since August 2000 holds the position of Special Representative of the Secretary General on the situation of Human Rights Defenders. He will also undertake his PhD studies on this topic.

## Prof. Schabas elected Chair of Institute for International Criminal Investigation

Professor William A. Schabas, director of the Irish Centre for Human Rights, was elected Chair of the Institute for International Criminal Investigation at its recent meeting in New York City, September 28-29.

The Institute is a newly-formed non-governmental organisation that provides training and expertise in the investigation of war crimes, crimes against humanity and genocide.

The Institute is in the course of establishing its head office in The Hague. The first training session of the Institute, intended for war crimes investigators currently working for international tribunals as well as specialists in national legal systems, is to be held in May 2002 at the headquarters of the Irish Centre for Human Rights, in Galway

## Irish Centre Joins European Masters in Human Rights and Democratisation Programme

The Irish Centre for Human Rights has been admitted to the network of European universities participating in the European Masters Degree in Human Rights and Democratisation Programme.

The European Masters now consists of twenty-nine academic institutions in the fifteen countries of the European Union. It provides multidisciplinary training at post-graduate level with a view to providing skilled human rights professionals who can work within international human rights institutions

and non-governmental organisations.

This year, Dr. Joshua Castellino and Ms. Niamh Walsh of the Irish Centre for Human Rights will participate in teaching during the first semester of the programme, which is held in Venice. Students spend the second semester at one of the participating universities, and it is expected that some will attend courses in the LLM in human rights offered by the Irish Centre for Human Rights.



## CONTACT INFORMATION

If you wish to sign up for any of the above activities or to receive information regarding the work the Centre carries out, please do not hesitate to contact us at:

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