



WSBA World Peace through Law Section

June 2011

“All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state”

-Article 2
United Nations
Charter,
ratified 1945.

“The Ehren Watada Case: Standing on Principle”

Tuesday, June 28, 2011

The Section’s meeting on Tuesday, June 28, noon – 1 p.m. features Kenneth S. Kagan, of the Seattle firm Carney Badley Spellman, discussing his experiences in successfully defending Lt. Ehren Watada from court-martial proceedings for his refusal to deploy during the Iraq War. Lt. Watada’s refusal to deploy garnered national attention and was based upon his claim that the Iraq War itself was illegal, violating international law. Mr. Kagan will discuss both the substantive legal issues involved and his practice experiences with this notable case.

First Lieutenant Ehren K. Watada was the first commissioned officer in the U.S. armed forces to refuse to deploy to Iraq, in June 2006, saying he believed the war to be illegal and that, under the doctrine of command responsibility, it would make him party to war crimes. He was brought before a court-martial in 2007 which ended in a mistrial, and was discharged in 2009.

Mr. Kagan has extensive trial and appellate practice experience in both the public and private sectors and in state and federal trial and appellate courts, as well as before state administrative agencies. He has been responsible for a number of published appellate court decisions, including the decision of the Washington State Supreme Court, *Seattle v. Mesiani*, wherein the Court ruled that DUI roadblocks are unconstitutional. In 1994 and 1995, he served as disciplinary counsel to the Washington State Bar Association. Since then, Mr. Kagan has developed expertise in additional practice areas, including legal ethics, professional licensing and discipline (representing, among others, doctors, lawyers, psychologists, therapists and counselors), and complex civil litigation, including medical malpractice and wrongful death.

Where: Foster Pepper, PLLC, 1111 Third Ave., Third Floor Conference Room, Seattle
CLE Credit: Approved for 1 general CLE credit.

Cost: Free for Section members and law students; \$25 for others.

Thanks to the Foster Pepper firm and WPTL member Kelly Angell for the generous offer of this space.

Register now: <http://tinyurl.com/42bnc2o> or contact the WSBA at 800-945-WSBA or 206-443-WSBA. **We hope to see you there!**

“Any person subject to this chapter who ... willfully disobeys a lawful command of his superior commissioned officer shall be punished, if the offense is committed in time of war, by death or such other punishment as a court-martial may direct”

—10 USC 47 s890 — Uniform Code of Military Justice Article 90 — Willfully Disobeying Superior Commissioned Officer.

Next Meeting: July 26

The next Section meeting is tentatively scheduled for July 26, to feature Marjorie Cohn, law professor at Thomas Jefferson School of Law in San Diego, who has written an important new book, *The United States and Torture: Interrogation, Incarceration, and Abuse* (2011 NYU Press). Save the date!

This is a publication of a section of the Washington State Bar Association. All opinions and comments represent the views of the author and are not necessarily endorsed by WSBA, its officers or agents.

Human rights not expendable even in times of crisis and recovery, warns UN expert on extreme poverty

Press release from the United Nations High Commissioner on Human Rights

GENEVA (1 June 2011) —“Unjustified reductions in expenditures devoted to implementing public services that are critical to the realization of economic, social and cultural rights will be in violation of human rights standards,” warned United Nations Independent Expert Magdalena Sepúlveda during the presentation of her report on human rights and extreme poverty to the Human Rights Council.

“Human rights are not expendable during times of crises and recovery. Even when resources are limited, States are legally bound to respect, protect and fulfill international human rights obligations,” Ms Sepúlveda said. “The challenge of recovering from the global economic and financial crises is an opportunity to embrace a vision for the future aimed at the full realization of human rights.”

The Independent Expert warned that several recovery measures adopted by States in the aftermath of the crises seriously jeopardize the enjoyment of economic, social and cultural rights by the poorest and most vulnerable groups. “Austerity measures such as cuts to social protection systems, regressive taxation measures, and elimination of food subsidies are proving detrimental to the poorest of the poor, exacerbating their already precarious situation.”

“There is no space in human rights for a trickle-down approach,” Ms Sepúlveda stressed. “From a human rights perspective, recovery must start with the most vulnerable and disadvantaged.”

Increasing inequalities and food insecurity, the declining availability of natural resources and unpredictable changes to climate patterns are likely to increase the potential for social unrest throughout the world. “Any recovery plan must anticipate these challenges and assume that there will be many more crises to recover from,” she said. “Only human rights-based change can directly address the long-term structural barriers to equality and set the foundations for a sustainable, socially inclusive society.”

Ms Sepúlveda urged States to view the challenge of recovery as a unique opportunity to aim towards the full realization of all economic, social and cultural rights for all individuals. “Through a human rights-based recovery, States have the chance to embrace new and ambitious approaches to reducing inequality, eliminating poverty and creating stable societies that will withstand future shocks.”

The expert’s report outlines a number of innovative measures to which States should lend serious consideration when formulating their economic recovery, including implementing a comprehensive social protection floor, adopting socially responsible taxation policies, and enhancing regulation that protects individuals from abuse by private actors.

See the full report:

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A-HRC-17-34.pdf>

Magdalena Sepúlveda is the independent expert on the question of human rights and extreme poverty since May 2008. She is a Chilean lawyer currently working as Research Director at the International Council on Human Rights Policy in Geneva. She has extensive experience in economic, social and cultural rights and holds a Ph.D. in international human rights law from Utrecht University.

Learn more about the Independent Expert mandate and work:

<http://www.ohchr.org/EN/Issues/Poverty/Pages/PovertyExpertIndex.aspx>

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