

Human Rights Proposal Sparks Assembly Debate

Lively debate animated the MSBA Assembly September 17 as the governing body considered a Human Rights Committee resolution to urge the United States Government to take steps towards ratification of the Rome Statute by expanding and broadening United States interaction with the International Criminal Court (ICC). Although threatened at one point by a motion to table it indefinitely, the resolution ultimately carried by a wide margin as members' concerns were laid to rest.

The resolution, having been reviewed and recommended by the General Policy Committee, was first proposed at the Assembly meeting in June 2010, but was held over to September to allow more time for consideration of the issues involved. The wording of the resolution echoes that of an ABA resolution on the same subject.

Barbara Frey and Duane Krohnke presented the resolution on behalf of the Human Rights Committee, arguing that Minnesota lawyers have long history of action on international human rights law and Minnesota should be one of the bar associations that steps forward to ensure that U.S. courts' and legal interests are represented on the ICC. They pointed out that with the special tribunals for Yugoslavia and Rwanda coming to an end, it is in the interest of the United States to be involved in shaping the ICC so as to protect its interests therein.

Assembly members voiced concerns regarding the broad powers contemplated for the court, including potential for the court to define crimes in ways that may conflict with American statutes and for United States service members to be subject to prosecution there.

Frey explained that the central notion underlying the ICC is that of complementarity, *i.e.*, it is a court of limited jurisdiction and of last resort; in any matter the preferred court is that of the individual states. The ICC sets a high

threshold for proof of crimes and any state that is a party can take jurisdiction back from the ICC. In response to a stated concern that the Assembly did not have sufficient information to endorse or call for ratification of the ICC, Frey pointed out that the resolution doesn't call for ratification but calls for United States involvement in the governance and shaping of the court.

In the final analysis, members were won over by Frey's argument that the United States would be disadvantaged by not being involved in shaping the ICC and that adequate safeguards were in place. "Failing to fully cooperate means missing an opportunity to help shape this institution," she said. "Not signing does not keep Americans from being prosecuted and not being involved doesn't protect us from anything." To date 114 countries have ratified the Rome Statute.

In other action the Assembly approved the annual audit report and authorized expenditure of an additional \$75,000 for legislative efforts in 2010-11, to be expended at the discretion of the Legislative Strategy Action Team. The funds are to be taken from reserves, which now exceed the targeted level of 25-30 percent of annual operating expenses and are expected to remain at that level at fiscal year end. Additional funds are expected to be solicited from MSBA sections to help promote the MSBA legislative agenda. President Terry Votel characterized the legislative challenges in the coming year as "grave," noting that issues of judicial selection and a proposed sales tax on legal services require active response by MSBA. The additional funds are authorized on a one-time basis for use in the upcoming legislative session only.

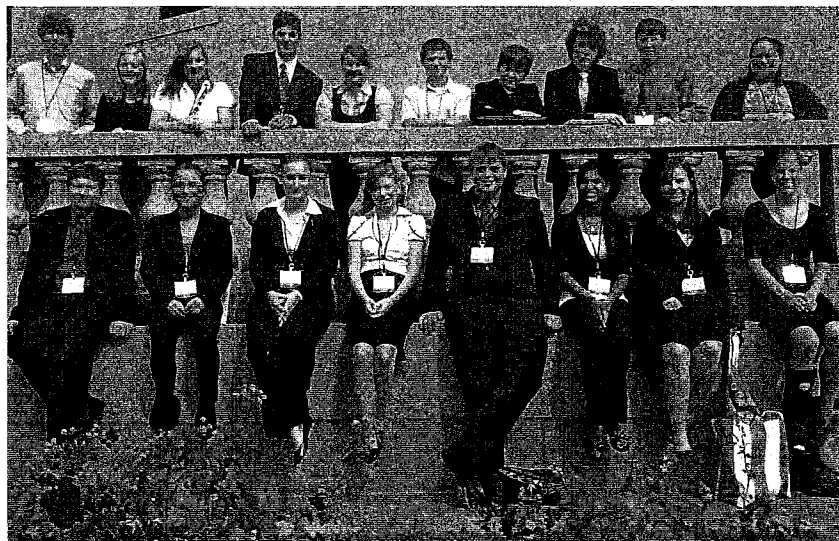
The agenda and related documents from the September 17 Assembly meeting can be viewed online at <http://www.mnbar.org/governance/assembly/10sept/Agenda.html>. Official minutes of the meeting are expected to be posted soon.

Bar Seeks Representative for Juvenile Delinquency Rules Committee

The Minnesota State Bar Association invites applications to be the MSBA's representative on the Supreme Court Juvenile Delinquency Rules Committee. Interested MSBA members should submit a Qualification & Interests statement, available at <http://www2.mnbar.org/governance/CommonFiles/qualint.pdf>, to Tram Nguyen, tnguyen@mnbar.org, fax: (612) 333-4927, no later than November 1, 2010.

The MSBA Court Rules and Administration Committee will review the nominations, and forward a recommendation to President Votel. The MSBA President will forward the MSBA's nominee to the court.

Please contact Tram Nguyen, (612) 278-6316, tnguyen@mnbar.org, with any questions.



These aspiring legal eagles from 13 Minnesota high schools, participants in the upcoming season of MSBA's Mock Trial Program, got an early start on polishing their trial skills during a two-day training session in St. Paul where they met with appellate judges, learned improvisational skills from the Brave New Institute, and heard from Chief Justice Lorie Gildea. Volunteer coaches and judges are needed for Mock Trial this fall. Contact Emily Reilly at ereilly@mnbar.org. Two alumni from last year's national champion Breck School team recently qualified for the mock trial team at Harvard University.