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Westminster Branch

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12th Ruth Steinkraus-Cohen International Law Lecture *“Establishing human rights in post-revolution states and in international waters”*

David Hammond

9 Bedford Row Chambers' International Group

6.30pm on Monday 3 March 2014

Report

The 12th Ruth Steinkraus-Cohen International Law Lecture was delivered on 3 March 2014 by [David Hammond, barrister at 9 Bedford Row International](#), who titled his address “Establishing human rights in post-revolution states and international waters”. In this, he reported on the pioneering work that he and colleagues are currently undertaking in Libya and for the international maritime community.

Mr Hammond opened his address with a review of the landscape of Human Rights challenges facing the citizens and governments in post revolution states including Ukraine, Syria and Egypt before moving on to introduce his work in Libya. In comparison with other North African States that experienced the Arab Spring, Libya has no previous experience of a functioning civil society which had been destroyed by Colonel Gaddafi. As a result, State development is slower than would otherwise be expected, as Libyan society becomes used to its freedoms. But also there is its growing awareness of just how much external assistance is required to build a new civil society that understands its own roles and limitations, the role of the rule of law and the right to protection of inalienable human rights, including recourse to effective remedies for breaches and abuses.

In 2011, the most serious human rights problems resulted from the absence of effective justice and security institutions. Impunity remains a serious problem. Courts barely function due to intimidation of judges and lawyers and when authorities attempt to conduct trials, threats and acts of violence have often influenced and curtailed judicial proceedings. Transnational justice is also slow and effective investigations appear to be rare with few prosecutions being undertaken.

The [General National Congress](#) set up its Human Rights Committee in April 2013, aiming to promote a culture of human rights. Also set up in 2012, was the [independent Libyan National Council for Civil Liberties and Human Rights \(NCCLHR\)](#), the independent State human rights organization and for which, Mr Hammond is UK Counsel advising on international matters. The NCCLHR has a legal mandate and which has been described by a member of the Danish Institute for Human Rights, as “the most

comprehensive mandate I have seen for a long while". It is certainly one to be proud of and compares very favourably to the [Egyptian quasi-governmental National Council for Human Rights](#) whose current mandate is limited to collecting and recording data; also it has no judicial power.

In January 2014, by adopting the "[Declaration of Adoption of the UN Guiding Principles for business and human rights](#)", with the principles otherwise known as the UN "[Protect, Respect and Remedy Framework](#)", the NCCLHR became the first human rights organization to address the issue of human rights and business in the Maghreb. Unfortunately, since 2012, the Council has been starved of promised funding and which continues to hamper its development and daily functioning.

Mr Hammond stressed the importance of the National Council as an independent source of advice, investigation, training and advocacy for human rights in Libya, with a focus on criminal, civil society and matters concerning business and human rights. This is important because business is the life-blood of Libya. Without trade and commerce in the long-term, Libya's potential for economic and therefore social development of civil society and access and recourse to human rights, will continue to be stunted.

Mr Hammond then turned to the new international initiative he is delivering of "[Human Rights at Sea](#)", asserting that their perceived extension from the land to the maritime environment should not be regarded as a challenge or hurdle, rather the natural progression of an evolving practice in terms of raising international maritime standards and the assurance of seafarers' safety and protections worldwide. The "[Freedom of the High Seas](#)" provided for by the [UN Convention on the Law of the Sea](#) (UNCLOS) beyond individual State territorial influences must not facilitate a laissez-faire attitude amongst State, private actor or commercial entities in their consideration, application and upholding of Human Rights at Sea. And yet there was a lacuna here in terms of available international and independent information for the maritime community concerning human rights. Since 2008, over 4000 Seafarers have reportedly been held hostage by pirates around the world. The protection and safety of seafarers and the assistance to seafarers and their families following incidents are also the focus of several maritime supporting organisations, such as the [Mission to Seafarers, Save Our Seafarers](#) and the [Maritime Piracy Humanitarian Response Programme](#). To address this lacuna, Mr Hammond's team will introduce a set of Model Guiding Principles which, voluntary in their use, will be developed for the benefit of the international community, as well as the entire maritime industry. They will comprise an international model precedent which complements preceding international work undertaken by Mr. Hammond, covering an international model maritime set of Rules for the Use of Force (RUF) otherwise known as the "[100 Series Rules](#)".

The new "[Human Rights at Sea](#)" initiative will aim to raise the issue of due consideration of human rights matters in daily commercial maritime business. It will assist masters, ship owners, insurance companies and other interested State, non-State and third-party private entities, including commercial activities of [Private Maritime Security Companies](#) employing Privately Contracted Armed Security Personnel, as well as unarmed security personnel with education and understanding of human rights standards and requirements. In short, instead of paying lip service to human rights in the maritime environment, this initiative will provide an independent focal point and information source for States, businesses and individuals to refer to, use and adapt - all with the objective of addressing the protection of, respect for and available remedies in relation to human rights at sea.

The two major international human rights initiatives that Mr Hammond is leading together with international collaborative partners and commercial supporting entities, are untried and untested. He acknowledges that they will attract criticism, but also support from those States, businesses and individuals who see the worth in developing and upholding the rule of law and assuring human rights protections for all. In recognising that criticism of his work supporting the independent Libyan National Council for Civil Liberties and Human Rights and that in advancing the case for the new Human Rights at Sea initiative, to include the Model Guiding Principles for mariners in international waters, Mr Hammond ended his lecture with the words of [Anders Lassen](#), a Dane who served with the British army

during World War II and who was awarded the [Victoria Cross](#). “The men who go first are rarely popular with those who wait for the wind to blow”.

In welcoming the large audience, Mr Sutheharan Nadahrajah, faculty member of the [Centre for International Studies and Diplomacy](#) (CISD) at SOAS, introduced programmes being undertaken by CISD led by its Director, Dr Dan Plesch, who was on assignment overseas. Mr Nadahrajah then introduced Mr David Wardrop, Chairman of the [Westminster Branch of the United Nations Association](#) who thanked CISD for its continuing hospitality and partnership. He thanked also the [International Committee of the Bar Council of England and Wales](#) for its support. In introducing the speaker, he referred to the remarkable range of projects led by members of the Bar Council working in developing countries worldwide, often without fee, advising on the introduction of a law-based society, increased transparency and the exercise of human rights.

Following Mr Hammond’s lecture, Mr Nadahrajah invited questions to the speaker. Ms Amanda Pinto QC, Vice-Chair of the International Committee of the Bar Council of England and Wales, thanked Mr Hammond, a fellow Bar Council member, for his lecture. A reception followed and later, the Bar Council kindly invited him and other guests to supper nearby.