Director David Scheffer with his colleagues, all former U.S. Ambassadors at Large for War Crimes Issues

THE CIHR WEIGHS IN ON MEASURES TO ADDRESS THREATS TO INTERNATIONAL PEACE AND SECURITY AND TO PROMOTE HUMAN RIGHTS AND THE RULE OF LAW

Holding Major Malefactors Accountable for Atrocity Crimes

As a part of a long standing effort by CIHR Director David Scheffer and others to encourage the nations of the world to confront atrocity crimes and to hold perpetrators accountable, on January 25, 2018, the CIHR partnered with the Carnegie Endowment for International Peace in Washington, D.C., to convene a symposium titled, Twenty Years Confronting Atrocity Crimes. All the former U.S. Ambassadors at Large for War Crimes Issues, of which Director Scheffer was the first (1997-2001), and their deputies spoke of their experiences confronting atrocity crimes and seeking accountability of perpetrators.

Director Scheffer delivered introductory and concluding remarks, spoke on the ambassadors’ panel, and moderated a victims’ panel. The symposium attracted a large Washington audience and the video record is posted at http://carnegieendowment.org/2018/01/25/twenty-years-confronting-atrocity-crimes-event-5800; in addition, on May 25, 2018 the CIHR partnered with the International Nuremberg Principles Academy to convene in Nuremberg, Germany, the Atrocity Crimes Litigation Bi-Annual Review Symposium, which was begun by CIHR more than a decade ago to review recent practice and jurisprudence of the war crimes tribunals. Moderated by Director Scheffer, the symposium brought together judges, prosecutors, defense counsel, administrators, and scholars for a full day of unscripted discussion. Many Northwestern Law students assisted with preparation of detailed substantive memoranda for the speakers at the symposium and several flew to Nuremberg to be present and assist with the day’s work.

Addressing Atrocities Against the Rohingya

Seeking to draw needed attention to the Rohingya refugee crisis in Myanmar and Bangladesh and the atrocity crimes being committed against the Rohingya, on January 23, 2018, Director Scheffer joined Dr. Azeem Ibrahim of the U.S. Army War
College for a discussion of the crisis with students and faculty at the law school.

**Relief for Victims of International Crimes**

Pushing to advance a CIHR project to create a self-funding mechanism for the International Criminal Court’s Trust Fund for Victims, on December 7, 2017, Director Scheffer, joined by a team of advisers, convened and delivered remarks at a side event of the 17th annual meeting of the International Criminal Court Assembly of States Parties, held at the United Nations in New York, to brief delegates and civil society about the project.

**Defending Freedom of Expression and Association in Vietnam**

IHR Advocacy Clinic students Alexa Posliff and Callhan Garrett, together with Prof. Bridget Arimond, have appealed on behalf of exiled Vietnamese pro-democracy activist Pham Minh Hoang to the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, and the UN Special Rapporteur on the situation of human rights defenders.

Pham Minh Hoang is a long-time non-violent advocate for democracy and human rights in his home country, Vietnam. In retaliation for his exercise of the rights to freedom of opinion, expression and association and his efforts as a human rights defender, the Government of Vietnam revoked Mr. Pham’s Vietnamese citizenship in May 2017 and in June 2017 forcibly expelled him from his homeland to France, a country as to which he had acquired dual citizenship in the mid-1990’s but in which he had not lived since his return to Vietnam nearly two decades ago. His expulsion has separated him from his family, including his wife, who is not a French national, their young daughter, and a disabled brother who was dependent on Mr. Pham for his daily care. Equally, it has separated him from the land that is his home and from the pro-democracy, pro-human rights advocacy to which he has dedicated himself for so many years.

The revocation of Mr. Pham’s citizenship, which paved the way for his expulsion, was particularly egregious because Mr. Pham was given no prior notice that his citizenship was in jeopardy and no opportunity – before or after the revocation – to challenge the basis for the revocation. To this day, he has never been told the reasons for the revocation, and his attempts to appeal the decision in Vietnam have been ignored.

CIHR’s submission to the Special Rapporteurs highlighted the ways in which Vietnam’s actions in revoking Mr. Pham’s citizenship and expelling him to France violate Vietnam’s obligations under the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights and entitle Mr. Pham to a remedy. These actions violate Mr. Pham’s right not to be arbitrarily deprived of his nationality, his right to remain in his own country, and his right not to be subjected to interference with his family life, as well as his rights to freedom of opinion, expression and association. As CIHR’s submission showed, as a matter of international law, Mr. Pham is entitled to a remedy for these violations that includes the restoration of his citizenship.

In addition to preparing the written submission on behalf of Mr. Pham, Callhan and Alexa traveled to Geneva in March 2018 for a meeting at the Office of the High Commissioner for Human Rights (OHCHR) with staff members for the Special Rapporteurs. At this meeting, Callhan and Alexa were able to present Mr. Pham’s case, answer questions, and emphasize the urgency of his situation.

**Clinic students’ work contributes to landmark ruling by the Inter-American Court of Human Rights on illegal adoption as a form of human trafficking**

In Fall 2016, the UN Special Rapporteur on Sale of Children, Child Prostitution and Child Pornography asked Prof. Bridget Arimond and her clinic students to undertake research and analysis into whether illegal adoption schemes could be considered a form of sale of children and/or human trafficking. She made this request because she had been asked to provide an expert declaration in a case pending in the Inter-American Court of Human Rights, *Case of Ramirez Escobar et al. v. Guatemala*, which involved the illegal international adoption of two young Guatemalan boys into homes in the U.S. This case arose out of a situation in Guatemala in the 1990s and early 2000s in which many Guatemalan
children were placed for international adoption (primarily to the U.S.) following “due process-free” methods of obtaining supposedly adoptable children. The two Ramirez brothers, aged two and seven at the time, were declared available for adoption after their single mother – who fought hard but unsuccessfully to regain her children – had left them under the care of a neighbor woman, whom she had paid to care for them while she was at work that day. When the boys were found unattended, they were declared “abandoned” and placed for adoption into two separate American families. At the time, international adoption was an extremely lucrative business in Guatemala, facilitated by a lack of any meaningful judicial oversight of the adoption process.

At the request of the Special Rapporteur, IHR Advocacy clinic students Tomisha Stanford, Samanta Suheen, Marisa Fenn, and Yewande Gilbert, along with Prof. Arimond, prepared a detailed memorandum on the “concept, definition and elements of the crimes of sale and trafficking of children in relation to illegal adoption,” based on relevant treaties, the jurisprudence of regional human rights tribunals and international treaty bodies, and commentary by international human rights mechanisms and experts. A second memorandum was prepared on States’ obligation to investigate, prosecute and sanction the sale and trafficking of children in relation to illegal adoption, as well as the measures that States must take to prevent these crimes. These memoranda guided the Special Rapporteur in the preparation of her expert declaration.

On March 9, 2018, the Inter-American Court issued its judgment in the Ramirez Escobar case, finding that Guatemala had breached its obligations and ordering reparations. Notably, the Court held that illegal adoption can indeed constitute trafficking in children. This had been a subject of some debate. Under the definition of trafficking in the Palermo Protocol, a “purpose of exploitation” is a necessary element of the offense. Because the end result of illegal adoptions can be the placement of the child in a loving home, it was argued that procuring, transferring or transporting a child for such an adoption could not satisfy the “purpose of exploitation” requirement. The Inter-American Court rejected this argument, becoming the first international tribunal to say unequivocally that illegal adoption is among the “purposes of exploitation” covered by the Palermo Protocol’s definition of trafficking. This ruling will strengthen future advocacy efforts to protect children and families by preventing illegal adoptions.

UN Consultative Status: An Opportunity for Student Involvement

This privileged status offers NU students a unique opportunity to work directly, under the supervision of CIHR faculty, before UN entities around the world to aid that organization in advancing the rule of law and international human rights. The CIHR, after a protracted application process, was granted by the United Nations a special consultative status with the United Nations Economic and Social Council. The status, which is administered by Clinical Associate Professor Stephen Sawyer, provides CIHR faculty and Northwestern law students with privileged access to UN entities across the entire range of UN operations worldwide. This access, which is available through no other elite law school in the United States, affords an extraordinary opportunity for CIHR faculty and students to contribute, through both oral and written statements, to the achievement of the vital work of the UN. During the past academic year and in prior years, CIHR faculty have taken advantage of the status to offer students opportunities in a wide variety of UN settings in this country and abroad. This activity has extended to interactions with numerous and diverse United Nations entities, including the Human Rights Council, the Human Rights Committee of the International Covenant on Civil and Political Rights, the Committee on the Elimination of Discrimination Against Women, the Conference of States Parties to the UN Convention
Against Corruption, the Open Working Group on Sustainable Development Goals and to UN related activities described elsewhere in this newsletter.

STUDENT AND ALUMNI ACCOMPLISHMENTS

Sarah Diaz (IHR LLM 2017)

Sarah has received much-deserved accolades for her Fall 2017 Graduate Research thesis entitled Parent-Child Border Separations in the U.S. Violate International Law. In July 2018, Sarah received the Charles Cheney Hyde Prize for the 2017-2018 academic year. Established in 1905 by Professor Charles Cheney Hyde, this prize is awarded every other year to the law student who writes the best paper related to public international law. In August 2018, Sarah’s paper was published by Georgetown Law’s Human Rights Institute in their online Perspectives on Human Rights paper series.

Maria Martinez (IHR LLM 2011)

Maria Martinez, who has worked since 2012 for the International Federation of Red Cross and Red Crescent Societies (IFRC), moved in early 2018 to Nairobi, Kenya, to begin her new position as IFRC’s Disaster Law Programme Coordinator for the Africa Region. Just the year before that, Maria had been promoted to the position of Legislative Advocacy Coordinator for IFRC’s Americas Regional Office. Prior to her move to Kenya, Maria reflected on her work at IFRC and on the foundation for that work which she gained through Northwestern’s IHR LLM Program.

“Humanitarian law and policy have been at the centre of my work during the last five years, first as Disaster Law Senior Officer, and currently as Legislative Advocacy Coordinator for the International Federation of Red Cross and Red Crescent Societies (IFRC) Americas Regional Office. The inherent advocacy function of the Red Cross and Red Crescent Movement has proven significantly crucial in the fulfilment of my mission: gaining humanitarian space and access to provide timely assistance to the most vulnerable.

“I have been working in IFRC since 2012, providing technical assistance to governments in drafting laws and policies for Integrated Disaster Risk Management. It is fascinating to be part of a global team that works in the development of a new branch of law: Disaster Law. Throughout these years I have been part of several missions around the continent including the United Nation Disaster Assessment and Coordination Mission (UNDAC) to Paraguay in 2015, where I was responsible for the legal section of the report. My experience in disaster law has also taken me to Africa, where I had the opportunity to closely collaborate in the revision of the Mauritius Natural Disaster and Risk Reduction Management Draft Bill and in the implementation of international disaster response law (IDRL) projects in Gambia, Malawi and Liberia.

“Since the beginning of 2017, in my role as Legislative Advocacy Coordinator for the Americas, I lead the advocacy strategies in the region for key humanitarian topics such as migration, disaster risk reduction and civil-military relations. Another major component of my current role is building effective relations with leading partners and sub-regional organizations.

“Holding an LLM in International Human Rights from Northwestern Pritzker School of Law has significantly contributed in shaping my law career, giving me the foundation to pursue my path in the humanitarian field. During my last semester at Northwestern I had the opportunity to be part of the human rights clinic and work closely with our Professor in the Defence team of detainees facing death penalty in Texas. Following the completion of my LLM, I was selected to do an internship at the Trial Chamber of the International Criminal Tribunal for the Former Yugoslavia (ICTY) within the Stanišić & Župljanin case, allowing me to have the opportunity to write a section of the final judgement. While working at ICTY, I was honoured to receive in 2011 the Sir Richard May Award, a recognition given to young professionals who significantly contribute in the advancement of international law. I am very grateful to the Law faculty for the extraordinary academic and practical training I received, constituting without a doubt a key ingredient of my success.”
Simon Crowther (IHR LLM 2013)

Simon Crowther has recently begun a new position as “Legal Adviser - Counter Terrorism and Criminal Justice” at Amnesty International in the U.K.

Since his 2013 IHR LLM graduation, has Simon has completed the two-year Bar Professional Training Course and a ‘pupillage’ (at Garden Court North Chambers in Manchester), both of which are required to qualify as a barrister (advocate) in the U.K. Additionally, he has used the knowledge and skills gained through the IHR LLM program in a number of contexts. Immediately following his graduation, Simon spent the summer working for CIHR’s Cambodia Tribunal Monitor, observing and reporting daily on the proceedings of the Extraordinary Chambers in the Courts of Cambodia. He then returned to London for an internship at Liberty (National Council for Civil Liberties), during which he wrote a report on police ‘stop and search’ powers and their disproportionate use against black men. During his Bar Course he found time to volunteer with the Free Representation Unit, providing pro-bono representation to disabled people in social security appeals, and with Detention Action, a charity that supports people who are incarcerated in immigration detention centres in the U.K. He then traveled to South Africa for a month-long internship at the Legal Aid Clinic at the University of the Western Cape in Cape Town, followed by a second internship at the Southern Africa Litigation Centre (SALC) in Johannesburg. During his internship at SALC Simon worked on a number of significant human rights cases, including litigation following an attempt to arrest the president of Sudan, Omar Bashir, for genocide and crimes against humanity. SALC then hired Simon for a six-month position as a research consultant, preparing country reports on freedom of expression.

Building on all of these experiences, Simon is very excited to now be working in his new position at Amnesty International.

SELECTED PUBLICATIONS

David Scheffer:
**Forthcoming**


2018

“Create a Select Committee of ICC State Party Representatives,” in **ICC FORUM** (June 28, 2018), at [https://iccforum.com/anniversary#Scheffer](https://iccforum.com/anniversary#Scheffer).

“Is the Presumption of Corporate Impunity Dead?” 50 **CASE WESTERN RES. J. INT’L L.** 213 (Spring 2018).


**Closing Perspectives, THE FOUNDERS** (David Crane, Leila Sadat, Michael Scharf, Eds.) 147 (2018).

2017


OTHER ACTIVITIES

President of the International Criminal Court Honored with the Global Jurist of the Year Award

On February 14, 2018, the Grotius Center for International Legal Studies in The Hague, Netherlands, hosted the annual CIHR award ceremony for the recipient of the Global Jurist of the Year. This is an award uniquely given each year by CIHR to a sitting judge who demonstrates a sustained commitment to the advancement of international human rights or international criminal justice in the face of considerable odds and with courage of conviction. It is the only honor of its kind and CIHR is proud to determine the recipient and present the award each year. The recipient of the 2017 Global Jurist of the Year Award was Judge Silvia Fernández de Gurmendi, the President of the International Criminal Court and a national of Argentina. Director Scheffer stated, when presenting the award to her, that “Judge Fernández has played a critical role in speeding up the proceedings while still protecting the rights of the accused. Under her leadership as president, the Court has significantly improved the efficiency and timelines of its trial work. That is critical in garnering political support for the ICC today and in the future. Judge Fernández’s jurisprudence on admissibility, on temporal jurisdiction, on what is required to confirm charges on crimes against humanity, and on the sufficiency of judicial measures to compel State Party cooperation with the Court has confirmed her insightful and prescient mind in the realm of international criminal law.”

Advocacy in Geneva before the Human Rights Treaty Bodies

During academic year 2017-2018, Prof. Bridget Arimond’s IHR Advocacy Clinic continued its advocacy before human rights treaty bodies in Geneva. Working with NGO partners in countries coming up for treaty body review, clinic students drafted reports highlighting particular rights violations and then traveled to Geneva to attend and participate in the treaty body sessions. These projects gave students direct experience in treaty body advocacy. Additionally, while in Geneva, the students had the opportunity to attend other human rights-related meetings and events taking place at the United Nations. During 2017-2018, a total of ten students in the IHR Advocacy Clinic had the opportunity to experience first-hand the workings of international human rights mechanisms in Geneva. In September 2017, IHR Advocacy Clinic students Raissa Carillo, Daniel Marin Lopez and Victoria Carmona participated in the review of Colombia’s human rights record by the UN Committee on Economic, Social and Cultural Rights (CESCR). In August 2017, with the students’ assistance, CIHR and its Colombian NGO partner, Campaña Colombiana Contra Minas (the Colombian affiliate of the International Campaign to Ban Landmines), had submitted a report to the CESCR documenting violations of the right to safe working conditions and the right to health, stemming from the Government’s policy of recruiting desperately poor rural workers to conduct forced manual eradication of coca plants in remote areas of the country. This work puts these workers at grave risk of injury or death from landmines that have been used to protect the illicit crops, as well as from attacks by the illegal armed groups that profit from the drug trade. To date, more than 65 civilian eradicators have been killed and more than 400 have been injured, primarily by landmines. In Geneva, Daniel and Raissa – both of whom are Colombian lawyers – took the lead in presenting our report. Daniel made the initial presentation to the CESCR, and Raissa took the lead
the following day in responding to questions from CESCRR members about the violations documented in our report.

Prof. Arimond’s Spring Semester IHR Advocacy Clinic students had the opportunity to participate in the March 2018 session of the UN Human Rights Committee, advocating for the human rights of transgender women in Guatemala and LGBT people in Liberia. Prior to the session, Clinic students Trilce Gabriela Valdivia Aguilar, Daniel Marin Lopez and Victoria Carmona worked with a coalition of Guatemalan NGOs to prepare a comprehensive report on violations of the civil and political rights of Guatemala’s transgender population, which was submitted to the Human Rights Committee. When the Guatemalan activist who had planned to attend the session in Geneva was unable to do so, she asked Trilce (a Peruvian lawyer in Northwestern’s IHR LLM program) to present her statement for her at the Committee session in Geneva. Trilce worked extensively with the Guatemalan activist to finalize the statement and, in Geneva, presented it on her behalf.

Two other IHR LLM students in Prof. Arimond’s clinic class, Alexa Posliff and Callhan Garrett, worked with a coalition of Liberian LGBT activists to prepare a report on human rights violations against lesbian, gay, bisexual and transgender Liberians. When, because of scheduling and visa issues the Liberian activists were not able to travel to Geneva, Alexa and Callhan worked with them to prepare an oral statement which Alexa delivered on their behalf. Throughout the session, Alexa and Callhan kept in close contact with the activists by email, to update them on the proceedings and to obtain answers to any questions that were asked about the violations documented in our report and, more broadly, about the situation of LGBT people in Liberia.

The opportunity to attend and participate in these treaty body review sessions is a perfect example of the way in which the IHR Advocacy Clinic works to pursue its twin goals: furthering the education of Clinic students and furthering the Clinic’s social justice goals. Each of the Clinic students attested to the importance of the Geneva experience in bringing to life, for them, the workings of the UN human rights mechanisms. The students’ work also had concrete results. In their Concluding Observations on Colombia, Guatemala and Liberia, the Committee on Economic, Social and Cultural Rights and the Human Rights Committee noted with concern the violations documented by the Clinic students, and made strong and detailed recommendations to the relevant countries regarding steps that should be taken to put an end to these violations.

Supporting Human Rights Education in the Republic of Georgia

For the past three years, CIHR Professor Bridget Arimond has worked to support human rights education and training in Georgia as part of the East West Management Institute’s USAID-funded project on Promoting Rule of Law in Georgia (PROLoG). Prof. Arimond’s primary mission during 2017-2018 has been to assist in the development of a new human rights and constitutional law clinic at Ilia State University School of Law in Tbilisi, Georgia, which will become operational in Fall 2018. In December 2017, Prof. Arimond and Shericka Pringle, Executive Director of the Bluhm Legal Clinic, traveled to Georgia for intensive meetings with the dean of the law school and the faculty members who are developing, and will be teaching, the new clinic class. Ms. Pringle and Prof. Arimond shared their expertise regarding the administrative, operational, and pedagogical aspects of establishing and operating a law school legal clinic.

During this visit Prof. Arimond also had the opportunity to participate in Tbilisi’s annual Human Rights Law Week. Organized by Tbilisi’s seven leading law schools, this yearly event features lectures and other events designed to promote greater
awareness and understanding of human rights issues. At one event, Prof. Arimond gave a presentation on “The Role of Law School Legal Clinics in the Protection of Human Rights in the United States,” after which two Georgian professors of human rights law offered commentary. At another event, held at the Supreme Court of Georgia, Prof. Arimond made a presentation as part of a panel discussion on combatting sexual harassment in Georgia, Europe, and the United States.

Prof. Arimond returned to Georgia in June 2018 and again in July 2018. Each time, she engaged in extensive discussions with relevant faculty and the dean of Ilia State University School of Law regarding the progress being made in preparing for the upcoming launch of their new human rights and constitutional law clinic. During the June 2018 visit, she also conducted a training workshop on clinical legal education for Georgian law professors and NGO lawyers, and she participated, along with a Georgian NGO activist, in a joint public lecture on drug policy and human rights in the United States and in Georgia.

In July 2018, both Prof. Arimond and Prof. Andrew Koppelman, Northwestern’s John Paul Stevens Professor of Law and Professor of Political Science, taught Georgian law students as part of two competitive entry summer school programs that attract students from law schools throughout Georgia. Prof. Arimond taught four classes on police misconduct and police accountability mechanisms, as part of a summer school on “Constitutional Law and Public Policy: Theory and Practice of Human Rights” organized by Ilia State University School of Law, with support from the UN High Commissioner for Human Rights (OHCHR), the Open Society Georgia Foundation (OSGF), the German International Cooperation Society (GIZ), and the USAID-funded PROLoG project. Prof. Koppelman taught four classes on American constitutional law and the doctrine of proportionality, at the Constitutional Court of Georgia’s Summer School on Constitutional and Human Rights Law.

Private and Public Presentations

On April 26, May 8, May 14, and June 29, 2018, Director Scheffer, joined by Dr. Caroline Kaeb of The Wharton School and a former Visiting Assistant Professor of Law at Northwestern, convened a series of closed-door roundtables with corporate executives in New York and Geneva and with civil society in Washington D.C., to discuss “Corporate Engagement with Public Policy,” a CIHR project. On June 29, Director Scheffer and Dr. Kaeb met with U.N. High Commissioner for Human Rights Zeid Ra’ad Al Hussein in his offices in Geneva and, following the High Commissioner’s opening remarks, held a meeting of corporate and civil society representatives to deliver the recommendations drawn from the project’s findings. Northwestern Law students were deeply engaged in assisting with substantive research and involvement with the meetings during the entire project.

On January 29, 2018, Director Scheffer spoke before The Henry Jackson Society of the British Parliament in London on “Present at the Creation of the Modern War Crimes Tribunals” and on the “Genocide Panel” at the Oxford Union at Oxford University, U.K.

On March 8, 2018, Director Scheffer received the Champion of Justice Award from the Center for Justice and Accountability in San Francisco at its 20th Anniversary Gala.