

Spring 2017 Newsletter

No. 2



Deputy Agent Phon van den Biesen, Agent Sakib Softić and CIHR Director and Deputy Agent David Scheffer at the International Court of Justice.

A Relentless Focus on Advancing the Rule of Law Worldwide: Addressing Atrocities in South Sudan and Fighting For Justice in the International Court Of Justice Case of Bosnia And Herzegovina V. Serbia

CIHR Director David Scheffer traveled to Juba, South Sudan, and Addis Ababa, Ethiopia, in early January 2017 with former U.S. Ambassador for Global Criminal Justice, Stephen Rapp, and Ambassador Todd Buchwald of the State Department Office of Global Criminal Justice to

address issues of justice and prevention of genocide in South Sudan. The delegation met with top officials of the government of South Sudan and civil society, with diplomats in Addis Ababa, and with officials of the African Union, the government of Ethiopia, and the U.N. High Commissioner for Refugees.

Following the trip, which was funded by Open Society Foundations, delegation members briefed U.S. Congressional members and staff in late February. Scheffer, Rapp, and former U.S. Ambassador at Large for War Crimes Issues, Clint Williamson, published an OpEd in *The Hill*, a Washington D.C. based political journalism newspaper and website.

Prof. Scheffer also appeared at the International Court of Justice (ICJ) in The Hague on 23 February 2017, as Deputy Agent for Bosnia and Herzegovina in the submission of the Application for Revision of Judgment of 26 February 2007, in the Case Concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia). This CIHR project benefited from research by several Northwestern Law students and alumni and the pro bono assistance of a major law firm.

Canadian Justice Honored with the Global Jurist of the Year Award

In January, upon the initiatives of Professors Juliet Sorensen and David Scheffer, the Center for International Human Rights honored Canadian Supreme Court Justice Rosalie Silberman Abella as the recipient of the fourth annual Global Jurist of the Year in a ceremony at the Law School. The Global Jurist of the Year Award honors a sitting judge in an

international or national court who has demonstrated a life of professional commitment — at times in the face of adversity — to upholding and defending fundamental human rights or principles of international criminal justice.

Prof. Scheffer, Director of the Law School's Center for International Human Rights, said: "Justice Abella has stood throughout her judicial career for the enforcement of human rights principles for all Canadians, regardless of their gender, ethnicity or station in life." The accomplishments of Justice Abella over a long career as a champion of human rights were detailed by Prof. Sorensen as a prelude to a major address by the Justice at the law school on a wide range of human rights issues.



Justice Rosalie Silberman Abella of the Supreme Court of Canada speaks at the Global Jurist of the Year Dinner and Award Ceremony.

The CIHR Weighs in on Grave Human Rights Issues Before United Nations Bodies

In October 2016, Professor Bridget Arimond, accompanied by International Human Rights Advocacy Clinic students Marisa Fenn, Yewande Gilbert, Tomisha Stanford and Samanta Suheen, traveled to Geneva to participate in the U.N. Human Rights Committee's reviews of Colombia's and Jamaica's compliance with their obligations as States Parties to the International Covenant on Civil and Political Rights. In anticipation of these reviews, Prof. Arimond and her prior clinic students had worked with local NGO partners to prepare written reports for the Human Rights Committee documenting human rights

violations by Colombia and Jamaica. Their report on Colombia documents violations of the rights to life, security of person and reparations as a result of a Colombian government program that deploys indigent campesinos to manually eradicate coca plants in remote areas where illegal armed groups use landmines and armed attacks to protect their illicit crops. As to Jamaica, Prof. Arimond, her students, and their Jamaican NGO partners submitted two reports: one documenting human rights violations based on sexual orientation and gender identity, and the other challenging a Jamaican law under which children deemed "beyond parental control" could be incarcerated for years following brief hearings that disregard the most basic due process rights. Their work on the latter report, in particular, was aided by the insights and guidance of Jamaican lawyer and IHR LLM alumna Shannon Hendricks (IHR LLM 2014), who, prior to coming to Northwestern, had worked as a Legal/Policy Officer with Jamaica's Office of the Children's Advocate.

In Geneva, Prof. Arimond and her students had the opportunity to meet with activists from their local NGO partners and to attend the closed-door briefings at which Human Rights Committee members meet with representatives of civil society organizations to discuss the issues raised in the submitted reports. During the civil society Formal Briefing, Colombian lawyer and IHR Advocacy Clinic alumnus Juan Pablo Calderón Meza (IHR LLM 2014) had the opportunity to formally address the entire Human Rights Committee regarding the situation in Colombia documented in our report. Following the civil society briefings, the Human Rights Committee engaged with the State delegations from Jamaica and Colombia for two three-hour sessions for each country. Witnessing these sessions first-hand gave the students a more immediate and personal understanding of the work of the U.N. treaty bodies than they could ever have obtained at a distance. Additionally, during breaks in the formal proceedings, opportunities existed to speak, one-on-one, with members of the Human Rights Committee, to advocate concerning the issues highlighted in our reports.



Juan Pablo Calderón Meza (center), IHR LLM '14, speaks to the HRC in Geneva, accompanied by Prof. Bridget Arimond (right).

Prof. Arimond and her students found the Human Rights Committee to be very attentive to the issues raised in their reports. During the review sessions for Colombia and Jamaica, Committee members made statements of concern and asked pointed questions of the government delegations regarding each of the issues targeted in these reports. At the close of the Session, the Human Rights Committee adopted formal “Concluding Observations” for each country, expressing the Committee’s concerns and recommending necessary policy changes. Jamaica was urged to amend its law to prohibit the incarceration of children deemed “beyond parental control” and to provide increased services to children and families in need of support and rehabilitation. Jamaica was further urged to decriminalize adult, consensual same-sex relations, enact comprehensive anti-discrimination legislation, ensure that acts of violence against LGBT persons are investigated, prosecuted, punished, and remedied, and conduct a national campaign to promote respect for the rights of LGBT persons. Colombia was urged to stop its use of civilians as coca eradicators until it is properly verified that the work areas are free of landmines and the risk of armed attacks.

In March 2017, Prof. Arimond returned to Geneva with one of her Spring Semester clinic students, Colombian lawyer Luisa Fernanda Gutierrez Quintero, to continue CIHR’s advocacy on behalf of the victims of Colombia’s use of civilians to eradicate coca in areas where the workers are vulnerable to landmines and armed attacks. This time, the purpose of the trip was to brief the Pre-Sessional Working Group (“PSWG”) of the U.N. Committee on Economic, Social and Cultural Rights (“CESCR”), which was

meeting to decide on the List of Issues for the CESCR’s upcoming Fall 2017 review of Colombia’s compliance with its obligations under the International Covenant on Civil and Political Rights.

During the briefing, Luisa made a formal presentation to the PSWG, outlining the ways in which Colombia’s program violates the rights to safe working conditions, health, and reparations for victims. Following Luisa’s presentation, both she and Prof. Arimond engaged in discussion and responded to questions asked by the Working Group members.

As a result of CIHR’s advocacy, the CESCR included the situation of the coca eradicators on its List of Issues for its upcoming review of Colombia. Colombia has been asked to provide information on the measures it has taken to prevent the hiring of civilians for its manual eradication efforts, and to provide additional information on the reparations it has provided to injured workers and the families of workers killed during coca eradication. Prof. Arimond intends to return to Geneva with students in her Fall 2017 clinic class, to continue their advocacy on behalf of the coca eradicators.

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.

Student and Alumni Accomplishments

CIHR students and alums continue to distinguish themselves by their dedication to advancing human rights around the world. Recent accomplishments of note include:

Pablo Contreras Vásquez (IHR SJD '17) defended his dissertation before Professors Scheffer and Arimond of CIHR and Professor Stephen Calabresi. Mr. Contreras' dissertation, *Deference in International Human Rights Law: A Comparative Approach*, is a path-breaking examination of human rights jurisprudence before the European Court of Human Rights, the Inter-American Court of Human Rights, and the Human Rights Committee of the International Covenant on Civil and Political Rights. Pablo's successful defense culminated more than five years of work – an achievement all the more impressive because of his other accomplishments during this same period. While pursuing his SJD, Pablo held a series of impressive positions, first as a Public Law Professor and Researcher at Universidad Alberto Hurtado, then as the Chief of the Rule of Law Unit of the Regional Office of the Office of the United Nations High Commissioner for Human Rights, and currently as the Chief of Policy and Regulation at the Chilean Government Consejo para la Transparencia (Council for Transparency). As if that were not enough to keep him busy, Pablo has also authored (or co-authored) two books since receiving his IHR LLM: *Secretos de Estado, Transparencia y Seguridad Nacional* (State Secrets, Transparency and National Security) (2014) and *Diccionario Constitucional Chileno* (Chilean Constitutional Dictionary) (2016) (co-authored).

Juan Pablo Calderón Meza (IHR LLM '14) moved to The Hague to begin work at what had long been his “dream job” – a position as a lawyer at the International Criminal Court. Following his IHR LLM graduation in 2014, Juan Pablo pursued a series of unpaid and paid human rights positions, including an internship at the Extraordinary Chambers in the Courts of Cambodia, a position with the NGO EarthRights International, and, most recently, a position as a Clinical Fellow at the International Human Rights Clinic at Harvard Law School. Along the way, he worked his way through the fairly arduous multi-stage process (including both written and oral exams) that culminated in the offer of a position at the ICC.



Prof. Calabresi, Prof. Arimond, Pablo Contreras Vásquez, and Prof. Scheffer celebrate the defense of Mr. Contreras' dissertation

But Juan Pablo almost never made it to any of these positions. Back in 2013, as a Colombian law firm associate who wanted to obtain an LLM in the United States, Juan Pablo had to decide whether to attend an LLM program that would prepare him to sit for the New York Bar Exam, or to take a chance and follow his heart by enrolling in Northwestern's LLM Program in International Human Rights. Reflecting back on that decision now, Juan Pablo said the following:

“Little did I know about the important decision I was about to take. ‘I’d like to take a moment of your time to try to persuade you to reconsider,’ said the email I received from Prof. Bridget Arimond, IHR LLM Director at Northwestern Pritzker School of Law. Because of financial concerns, I was planning to go to a different school and to stay in the normal career path at a law firm. Prof. Arimond knew from my application, however, how much I wanted to be a human rights advocate and pursue a career in international justice. The trials at The Hague and Cambodia seemed a dream to me, something I could only read in the books, the closest remembrance of the Nuremberg Trials. Little did I know, however, that my choice to learn from Professors Arimond, Scheffer and Sorensen in the classroom, as well as through clinic fieldwork in Colombia and Mali, would be the most important decision I have made in my career. After the IHR LLM, I was an intern at the Extraordinary Chambers in the Courts of Cambodia, and today I am an Associate Legal Officer at the International Criminal Court. I will never know what would have happened if I had made a different decision, but I do know that I made the right one.”

Salma Waheedi (JD '14) was a Fall 2012 and Spring 2014 student in Prof. Bridget Arimond's International Human Rights Advocacy Clinic. She is now following the adage that one should "pay it forward" by taking on a teaching role at Harvard Law School's International Human Rights Clinic. During the 2016-2017 academic year, Salma was a Clinical Advocacy Fellow at Harvard's IHR Clinic (as well as a Law and Social Change Visiting Fellow at Harvard's Islamic Legal Studies Program). In Spring 2017, Salma was the successful applicant for a coveted position as Clinical Instructor at Harvard Law's International Human Rights Clinic. Writing to Prof. Arimond to share the news that she had been selected for this position, Salma credited the training she received as a clinic student for helping her get where she is today: "I cannot possibly emphasize enough how much the training I got at the Northwestern Human Rights Clinic, working with you, has helped me here!"

Selected Publications

Supplementing the work of the CIHR in our teaching, clinical work, and other human rights advocacy, CIHR faculty have expanded understanding and knowledge in our field through the written word. Set forth below are some of the recent publications of our faculty.

Prof. Scheffer

Prevent and punish in South Sudan, *The Hill*, Feb. 1, 2017, at <http://thehill.com/blogs/congress-blog/foreign-policy/317252-prevent-and-punish-in-south-sudan> (with Stephen Rapp and Clint Williamson).

Amending the Crime of Aggression under the Rome Statute, in *The Crime of Aggression A Commentary* (Claus Kress and Stephan Barriga, Eds.) 1480 (2017).

Criminal Justice, in *The Oxford Handbook of International Organizations* (Jacob Katz Cogan, Ian Hurd, and Ian Johnstone, Eds.) 282 (2016).

More Options for Africa under the Rome Statute, *Just Security*, Nov. 19, 2016, at <https://www.justsecurity.org/34669/options-africa-rome-statute-international-criminal-court-scheffer>.

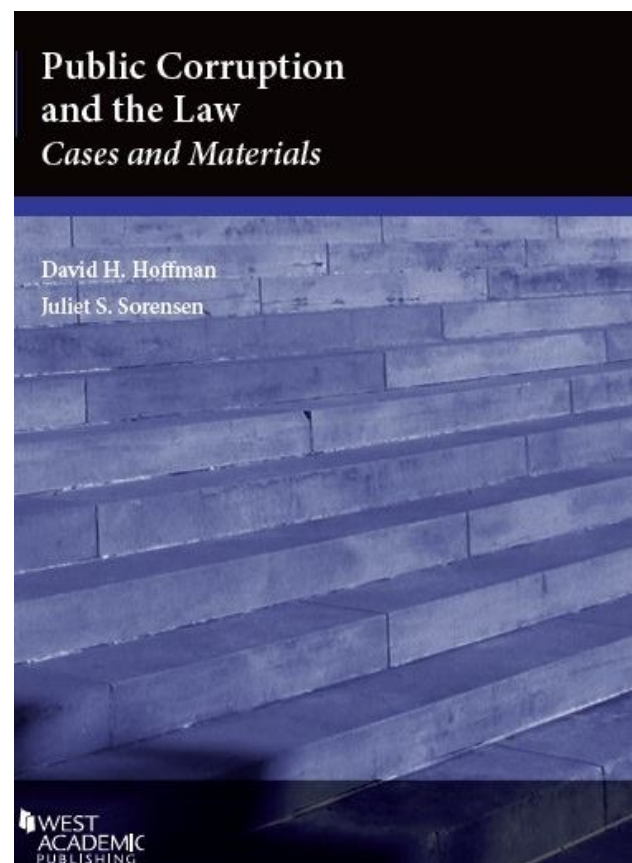
Three Realities About the African Situation at the International Court, *ICCForum*, Nov. 2016, at <http://iccforum.com/withdrawal#Scheffer>.

Corporate Liability under the Rome Statute, 57 *Harv. Int'l L.J.* (Online Symposium) 35 (2016), at <http://www.harvardilj.org/online-symposium-an-international-jurisdiction-for-corporate-atrocity-crimes/>.

Prof. Sorensen:

David H. Hoffman and Juliet S. Sorensen, *Public Corruption and the Law: Cases and Materials* (West Academic 2017).

From Lebanon, *Lessons In Law And Life*, *Huffington Post*, Apr. 2017, at http://www.huffingtonpost.com/entry/from-lebanon-lessons-in-law-and-life_us_58ffad8fe4b0938fb73e9625



Other Activities

Conference Presentations

CIHR Director David Scheffer spoke about The AU and ICC Stand Off at a Loyola University Law School Symposium on 30 January 2017 entitled, War Wounds: The Role of International Criminal Justice in Rebuilding the Rule of Law.

In February of this year, Professor Sorensen participated in a conference at the International Anti-Corruption Academy in Vienna, where she presented on "Corruption in an Era of Climate Change: an Ever Closing Circle?" as part of the anticorruption working group of the Law Schools Global League, of which Northwestern Pritzker School of Law is a member

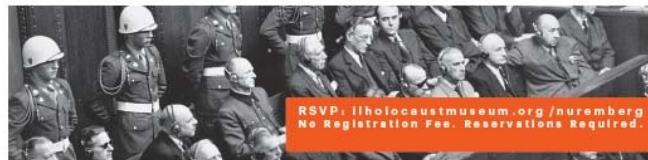
Prof. Sorensen moderated and spoke and Prof. Scheffer presented on a panel at the Illinois Holocaust Museum and Education Center's event *The Legacy of Nuremberg: Impact and Response on International Human Rights & Criminal Law*. For video of the event: <https://vanillavideo.com/viewer/21a5637716dd6587faeb04423e002050a659e65f0372552fbfe742d1e28754e5/>



In partnership with:
Center for International Human Rights
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PRITZKER SCHOOL OF LAW
Bluhm Legal Clinic

The Legacy of Nuremberg

IMPACT AND RESPONSE ON INTERNATIONAL HUMAN RIGHTS & CRIMINAL LAW



FRIDAY, JUNE 2, 8:00 AM - 11:30 AM
Illinois Holocaust Museum & Education Center | 9603 Woods Drive, Skokie, 60077

Join us for an engaging and thought-provoking series of presentations that will explore the relevance of the Nuremberg trials over 70 years later, and the lessons and challenges the legal world continues to confront today.

8:00 - 8:30 AM Registration & Continental Breakfast

8:30 - 8:45 AM Welcome & Special Video Message from Ben Ferencz, Nuremberg Trials Chief Prosecutor

History Is Not on Your Side: The Lessons We Continue to Learn from Nuremberg

8:50 - 9:40 AM
Ambassador David Scheffer | Meyer Brown/Robert A. Helman Professor of Law and Director of the Center for International Human Rights, Northwestern Pritzker School of Law

William A. Sarrafie | Partner, Sidley Austin LLP, Senior Member of Healthcare Practice Group

Juliet S. Sorensen (Moderator) | Harry R. Horow Professor of International Law, Center for International Human Rights, Northwestern Pritzker School of Law

Limiting Words: Hate Speech or Free Speech?

9:50 - 10:40 AM

Wendy J. Muchman | Chief of Litigation and Professional Education, Illinois Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois

Steven H. Rosencoff | Professor of Law and Director, DePaul University College of Law Center for Jewish Law & Judaic Studies

Jason C. DeSanto (Moderator) | Senior Lecturer, Northwestern Pritzker School of Law

The Audacity of Hope: Why Nuremberg Matters to International Criminal Law Today

10:50 - 11:25 AM

Juliet S. Sorensen (Keynote) | Harry R. Horow Professor of International Law, Center for International Human Rights, Northwestern Pritzker School of Law

Supporting the Work of the U.N. Special Rapporteur on the Sale and Sexual Exploitation of Children

At the request of Maud de Boer-Buquicchio, U.N. Special Rapporteur on the Sale and Sexual Exploitation of Children, Professor Bridget Arimond and the students in her Fall Semester IHR Advocacy Clinic spent much of the semester researching and analyzing international and regional human rights standards and jurisprudence concerning illegal adoption. The impetus for this work was the case of *Ramírez Brothers and Family v. Guatemala*, currently pending before the Inter-American Court of Human Rights. This case concerns the illegal international adoption of the two Ramírez brothers, who were taken at a young age from their mother and placed for adoption with two sets of parents in the United States. The domestic proceedings leading up to these adoptions fell woefully short of the necessary due process protections that should have safeguarded the rights of the brothers and their parents. These adoptions took place at a time of burgeoning international adoptions of Guatemalan children, an inadequate domestic legal framework that permitted extrajudicial adoptions, and many reported irregularities in the highly-profitable business of international adoption.

When the Special Rapporteur was asked to provide an expert declaration in the *Ramírez Brothers* case, she turned to Prof. Arimond and her clinic students for assistance with research and analysis of the relevant standards and jurisprudence in the international and regional human rights systems. Specifically, she asked Prof. Arimond and her team to research and analyze the concept, definition and elements of the offenses of sale of children and trafficking in children, particularly in the context of illegal adoption. She requested additional research on whether the sale or the trafficking of children, for purposes of illegal adoption, should be considered a practice similar to slavery, so as to fall within the proscriptions of the anti-slavery provisions of various international and regional treaties. Finally, she asked for research on international and regional human rights standards regarding the measure States must take in order to prevent illegal adoptions and, when prevention fails, to investigate, prosecute, punish, and remedy cases of illegal adoption.

In addition to honing their research skills and learning a great deal about the applicable norms governing the sale and trafficking of children, illegal adoption, and practices similar to slavery, the IHR Advocacy Clinic students had an excellent opportunity to learn first-hand about the work of the U.N. Special Rapporteurs. Early in the semester the students participated in a lengthy conference call with Ms. de Boer-Buquicchio regarding this project and, more generally, her work as Special Rapporteur on the Sale and Sexual Exploitation of Children. Later in the semester, during their trip to Geneva (see preceding article on Advocacy in Geneva before the U.N. Human Rights Committee), Prof. Arimond and her students had a meeting to discuss their findings at the Office of the High Commissioner for Human Rights with the professional staff who support the work of the Special Rapporteur.

Welcoming Delegation of Georgian Human Rights Professors to Northwestern Pritzker School of Law

As part of CIHR's five-year partnership with the East West Management Institute's USAID-funded "Promoting Rule of Law in Georgia" ("PROLoG") project, in September 2016 CIHR hosted a week-long visit to the law school by a four-person PROLoG delegation. Delegation members included PROLoG's Director for Legal Education and three human rights professors from Georgian law schools. The visit gave the delegation the opportunity to attend classes and see for themselves how human rights law is taught at Northwestern Pritzker School of Law.



Tamar Gurchiani, Vakhushiti Menabde, and Ketii Shubashvili, Georgian professors and human rights lawyers, present on women's rights in Georgia.

The week began with a welcome dinner at the home of Prof. Bridget Arimond. During the dinner, the Georgian visitors had the opportunity to meet informally with Prof. Arimond and the students in Northwestern's LLM Program in International Human Rights. This set the stage for a busy and engaging week attending human rights classes, discussing teaching methodologies and clinical education, and meeting with members of the Northwestern faculty who teach in the areas of freedom of expression and freedom of religion. A high point of the delegation's visit was their presentation to the Northwestern Law community on women's rights in Georgia.

Interdisciplinary Assessment of Syrian Refugee Health and Human Rights in Lebanon



At the invitation of several NGOs based in Lebanon, Professor Sorensen's health and human rights class undertook an interdisciplinary assessment of the health, human rights and development of Syrian refugees in Lebanon. In March, six health and human rights students traveled to Lebanon with Prof. Sorensen, Schuette Clinical Fellow in Health and Human Rights Anna Maitland, and Professor Maria Hawilo to further the assessment with a series of focus groups and interviews of stakeholders in the Syrian refugee crisis. The Northwestern Access to Health Project is continuing its work in Lebanon with Basmeh and Zeitoonah, a community-based organization that builds capacity and addresses sectarian divisions among the Syrian displaced.