

Sibley Lecturer explores the role of the World Court

The International Court of Justice is a “potent” force in international law, according to Judge Joan E. Donoghue, who sits on the global governing bench. The judge said she chose the word deliberately as a medicine can be potent but so can a poison, and people often put the court into one of the two categories.

In her role as Georgia Law’s 108th Sibley Lecturer, Donoghue explored these opposing views and educated a packed Hatton Lovejoy Courtroom about this judicial body and its role in the growing area of international law and dispute resolution authorities.

The International Court of Justice, also known as the World Court, was established in 1945 by the United Nations and replaced its predecessor, the Permanent Court of International Justice, which was created in 1920 under the League of Nations.

With 15 judges from countries around the world, and only one from any particular nation, the International Court of Justice hears two types of cases – ones where two states have a dispute and ones where the judicial body is asked to render an advisory opinion in response to other organs of the U.N.

“Most of the court’s caseload, though, about 80 percent, is in the form of contentious cases, where one state brings a case against another state,” Donoghue said.

“[The World Court’s] U.N. charter does not require all states to come before the court – there is no mandatory jurisdiction. ... The court has jurisdiction in contentious cases only if a state consents to the court’s jurisdiction,” she added.

Donoghue estimated that about one-third of the states in today’s world accept the court’s compulsory jurisdiction and said the United States initially consented but withdrew its support approximately 25 years ago when a controversial ruling was made in a case between the United States and Nicaragua.

“Since the 1980s, the U.S. has avoided treaties requiring disputes going to the World Court and participates only in the optional treaties now,” she said.

In addition to settling disputes, Donoghue said the court’s other main purpose is to clarify and fill out the content of international law.

It is this role, according to the judge, that is the most sensitive and the most controversial of the court.

“International law, like domestic law, is not always precise and clear. The court has to elaborate and interpret as it’s working



Photo by Bob Brussack (JD/76)



Watch Donoghue’s lecture online at www.law.uga.edu/multimedia-gallery-recent-events.

“The law shaping function of our court is not limited precisely to the pronouncements in our judgments themselves.”

through its cases. In many of our cases we, on the court, face delicate questions about whether to address issues narrowly or broadly. These are all factors that influence the way members of the world community view the World Court.”

It is notable that the jurisprudence of the court does not bind anyone other than the parties to the case, its decisions cannot be appealed, and the court is not bound by its own precedents in the way a common law court is.

“The law-shaping function of our court is not limited precisely to the pronouncements in our judgments themselves. I think it also percolates in the background of many national decisions that have implications with respect to international law. The prospect of adjudication in the ICJ might deter certain national behavior but it might also embolden a state that makes a judgment that whatever action it’s considering would be upheld by the ICJ, if there were a case,” she said.

Donoghue added that when lawyers go to look at international law on a particular question, one of the first sources they go to is the World Court and where they cannot find a specific case that answers the question they attempt to extrapolate from other cases to try to figure out how they think the court might react.

In her closing remarks, Donoghue said, “As students in a great American law school your professors constantly challenge you by first asking you to embrace one position; and just when they’ve got you convinced that position is right, they then tear it to shreds. But it’s that process of constantly questioning and reflecting on things that you as law students need to hold on to as you move forward in your career, because it’s when you become too certain in your views that you lose your ability to really think carefully about questions like, ‘Is the World Court a good idea or not?’”

The Sibley Lecture Series, established in 1964 by the Charles Loridans Foundation of Atlanta in tribute to the late John A. Sibley, is designed to attract outstanding legal scholars of national prominence to Georgia Law. Sibley was a 1911 graduate of the law school.

Students support Athens music scene

Georgia Law's Sports and Entertainment Law Society joined forces with UGA's Music Business Program and Nuçi's Space to host a conference on current music industry business and legal issues. Titled "Protect Athens Music," the symposium addressed topics such as booking, contracts, and copyright issues, and panelists included legal and business music professionals. The event was followed by a free legal clinic where experienced entertainment law attorneys provided local musicians with one-on-one consultations.

Among those offering their expertise at the "Protect Athens Music" conference were: (l. to r.) Georgia Lawyers for the Arts Executive Director Lisa Moore, Director of Writer/Publisher Relations for BMI Atlanta David Claassen, Georgia Law Cobb Professor David Shipley, entertainment attorney and Slush Fund Recordings Owner David Prasse and R.E.M. Manager Bertis Downs (J.D.'81).

7th Annual WIPI event addresses range of public interest matters

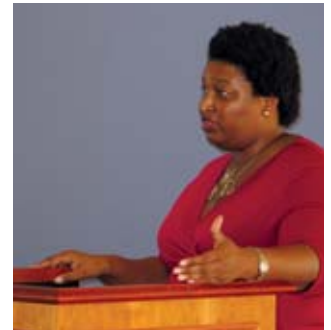
Each year, the school's public interest law conference seeks to bring together both practitioners and students to discuss real issues confronting attorneys and others working in the field of public interest, and this year was no exception. Exploring topics ranging from judicial budget cuts to the sustainability of animal farming were: Chief Justice Carol W. Hunstein of the Supreme Court of Georgia; Joyce Tischler, co-founder of the Animal Legal Defense Fund; and Tom C. Rawlings (J.D.'92), Guatemala field office director for the International Justice Mission, to name a few. Also participating as this year's keynote speaker was attorney Jan R. Schlichtmann, who became famous during the 1980s as a result of his lawsuit alleging that chemicals from several companies had contaminated drinking water in a town north of Boston.



Keynote speaker James Salzman, Mordecai Professor of Law and Nicholas Institute Professor of Environmental Policy at Duke University (left), explored the challenges and opportunities for creating markets for ecosystem services. Also delivering a keynote address was Dorinda Dallmeyer (J.D.'84), Environmental Ethics Certificate Program director at the UGA College of Environment and Design, who discussed balancing human impacts on Georgia's natural habitats.

Conference focuses on civil and human rights

The *Georgia Law Review* hosted a conference in the fall that explored civil and human rights issues of today and tomorrow. Titled "Civil Rights or Civil Wants," the symposium featured panels on immigration, international civil rights, education and privacy. The forum sought to jumpstart conversations about civil rights matters that face the world today and to explore the issues that our nation faces in an increasingly interconnected global society. The event also concluded the law school's commemoration of the 50th anniversary of the desegregation of UGA.



Stacey Abrams, the House minority leader for the Georgia General Assembly and state representative for the 84th District, served as the keynote speaker. She is the first woman to lead either party in the Georgia General Assembly and the first African-American to lead a party caucus in the state's House of Representatives.

Symposium seeks to balance Georgia's growth with the things that grow

How to balance the long-term sustainability of Georgia's ecosystems with efforts to stabilize and improve its economy was the topic of discussion at the 24th Annual Red Clay Conference. Panelists explored options for reconciling what are often considered divergent goals and looked at market-based conservation tools, the impact of non-indigenous species, longleaf pine restoration and possible changes to the federal endangered species list.



General Counsel for Coca-Cola delivers 30th Edith House Lecture

Serving as this year's Edith House Lecturer was General Counsel for Coca-Cola North America Leslie M. Turner. During her presentation, titled "Winning or Winning With Integrity? A Lawyer's Role in the Corporate World," Turner explored how businesses today must have a "social license to operate" and discussed the idea that to obtain this license corporate lawyers must go beyond advising on what a company can do and look at what they should do.

"Businesses don't operate in markets, they operate in communities – real live places with real live people," Turner said. "Businesses need the approval and acceptance of real live consumers who buy their products."

This is why, Turner said, branding and marketing can only go so far in helping a company be successful.

"We have learned that one of the reasons that consumers choose a company, or that our consumers choose our company, has a lot to do with how they feel about us as a company and as a corporate citizen," Turner said.

"For The Coca-Cola Company, for any company – whether you are operating in the U.S. or around the world – having a social license to operate means being a good steward of [your] consumers' and [your] communities' well being and operating morally, ethically and with integrity."

Not only is this stewardship beneficial to the people directly impacted by the company's decisions, but it can also be good for the organization's bottom line.

For example, Turner noted that last October, *Newsweek* reported that companies that actively manage environmental matters actually outperform those that do not.

"Being mindful of your social license to operate sometimes makes plain old good business sense," she said.

Also increasing the need for businesses to be mindful of their social perception is the "age of transparency" that has been ushered in by the reach of digital connections, Turner stated.

"There isn't much that goes on in the world today that isn't known instantly," she added. "We have an explosion of information accessible at the touch of a finger and available in the palm of our hands, in everybody's hands. ... [It's] quickly analyzed and sometimes blown out of proportion and distorted, and thoughtful discussion about it might be the one thing that gets lost in the shuffle."

Turner said this is why it is so important for lawyers to look at what a company should do, not just at what is or is not legal.

"Gaining and retaining a social license to operate requires in-house counsel to assess, to be cognizant of [and] to counsel on more than the letter of the law," Turner said.

"Being mindful of your social license to operate sometimes makes plain old good business sense."



Watch Turner's lecture online at www.law.uga.edu/multimedia-gallery-recent-events.



Photo by John Disney/Daily Report

She gave several recent examples of companies whose social license to operate was threatened by decisions they made on issues such as labor standards and water usage and pointed out that while the lawyers in each case had certainly performed their professional obligations, the companies still had difficulties or challenges in their ability to reach their business goals due to negative consumer reactions.

"As lawyers we have to be business partners and counselors. We have to understand what gets in the way of people wanting to receive or access our products, develop the best way to solve conflicts and understand how businesses make money," Turner said. "But as counselors I believe that we have an obligation to advise our business colleagues on the importance of not simply winning, but winning with integrity."

To achieve this, Turner said, lawyers must have an unwavering, laser focus on what the company should do. They need to take into consideration the needs, interests and concerns of the company's consumers, as well as of the communities in which the business operates, and then advise on the best course of action.

"[A]dvising on what a company should do is the difference between being a lawyer and a counselor. It's showing leadership and being a partner with the business. Raising your hand can cause scrutiny, and it is not always the most comfortable space to be in. But being a counselor can make a palpable difference in how a company operates and how it is perceived."

This type of leadership, Turner said, takes tremendous courage and requires lawyers to stand up to the "win by any means necessary mentality," which can be found in a variety of environments.

"[It] really doesn't matter if you are in-house or private practice or your own practice or government, I believe that as lawyers – because of the principals that we represent and the ethics that we have – that we have the opportunity, and sometimes the unique one, to call out and question ... 'Are we standing for integrity?'"

The Edith House Lecture Series is hosted annually by the Women Law Students Association in honor of one of the first female graduates of Georgia Law. House, a native of Winder, Ga., was co-valedictorian of the law class of 1925, the first class with women graduates.