



Former U.S. ambassador addresses atrocity crimes

America's first Ambassador-at-large for War Crimes Issues, David Scheffer, spoke to the law school community earlier this spring about atrocity crimes past, present and future.

Scheffer drew from his book, *All the Missing Souls: A Personal History of the War Crimes Tribunals* – a personal account

atrocities – found its purpose as mass killings and ethnic cleansing consumed entire regions of the Earth.”

Before he took his ambassadorship with the Clinton administration in 1993, the “old world” did not have any international criminal courts, Scheffer noted. Because there was no precedent and little knowledge of how to prosecute genocide, he said establishing international criminal courts was a challenge.

“That lack of experience was something we had to overcome in 1993 and 1994 as we were building the first two of these tribunals,” he added.

Massive atrocities ensued as the decade went on, hindering the team's progress.

“[The atrocities] were extremely disruptive of rational policy making in the aftermath of the Cold War,” Scheffer said.

After revisiting fundamentals, five tribunals were established: Yugoslavia, Rwanda, Sierra Leone, Cambodia and the permanent International Criminal Court.

“The grand objective since 1993 has been to end impunity at the highest levels of government and the military,” he added. “Not only for genocide, which captures the popular imagination with its heritage in the Holocaust, but also for the far-less understood offenses of crimes against humanity and war crimes.”

—Crissinda M. Ponder



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

of his involvement in helping to establish international criminal tribunals and his experience heading the U.S. team negotiating the statute of the International Criminal Court.

During his talk, Scheffer discussed why the highest political and military leaders are increasingly at risk of indictment and prosecution today and why the mission of accountability grows with every passing year.

Scheffer said to comprehend these two issues it is important to look back at crises that occurred during the 1990s, when “one of the most ambitious judicial experiments in the history of humankind – a global assault on the architects of

Overview of conference projecting IP questions into the future

Encouraging an international group of intellectual property law scholars to consider the most pressing issues on the horizon, the Dean Rusk Center for International Law and Policy, in cooperation with the *Journal of Intellectual Property Law*, hosted a day-long conference titled “Back to the Future: Global Perspectives on the Future of IP Law in the Next Decade” during March.

The conference brought together renowned scholars from every branch of IP law – copyright, patent and trademark – including Orit Fischman Afori from Israel, Annette Kur from Germany and Alain Strowel from Belgium.

Both Afori and Strowel emphasized the way historical movements in copyright law will continue to shape its immediate future. Strowel looked at the past decade to forecast the next, opining that judicial developments are likely to be far more important than legislative changes. Afori took a longer historical view, highlighting key moments in centuries of copyright law and reached a conclusion quite similar to Strowel's: judicial, rather than legislative, developments will dominate.

In the third copyright presentation, Michael J. Madison explored the shifting boundaries of the seemingly simple notion of a “work.”

The second conference panel focused on trademark law, in both the United States and the European Union.

Kur used the findings of a 2011 trademark study conducted by the Max Planck Institute for Intellectual Property & Competition to frame her comparison of U.S. and EU approaches to trademark. She took special note of the different

ways these systems tackle questions that turn on the actual use of a mark in a given geographical area.

Mark P. McKenna explored continuing controversies regarding the reach of the Supreme Court's 2003 decision in *Dastar Corp. v. 20th Century Fox*, a case about the boundary between trademark and copyright law.

Stacey Dogan urged IP scholars and advocates to take up the challenge of pushing back against overly expansive trademark claims by showing the vital social values promoted by uses that, under current law, are arguably infringements.

The final panel explored the future of patent law. Andrew W. Torrance shared new data about the rates at which the U.S. Patent and Trademark Office makes various objections to an inventor's patent application. This new data set promises to open exciting avenues of analysis in the future.

The other panelists focused on design patent law, a mode of protecting ornamental designs for goods.

Mark D. Janis and Jason Du Mont compared the EU and U.S. approaches to the question of functionality, an exclusion that prevents design protection.

Additionally, Rebecca Tushnet explored the difficulties courts have in determining the proper scope to give design patents. A given design makes an overall impression, and that impression is what the law protects. But similar impressions from competing designs may arise from their use of unprotectable features of prior art designs. Deploying insights from copyright law, Tushnet considered various potential responses to this ongoing conundrum.

—Georgia Law Professor Joseph S. Miller

Symposium explores energy security issues

The *Georgia Journal of International and Comparative Law* hosted a daylong conference on energy security issues in international law during February.

Titled “Striking the Right Balance: Energy Security in International Law,” the event brought together a mix of leading academics, policy makers and practitioners to engage in important dialogue on the intersection of energy, security and international law.



Commissioner William Ostendorff of the U.S. Nuclear Regulatory Commission delivered the keynote address at the “Striking the Right Balance: Energy Security in International Law” conference.

Through three different panel discussions and a keynote speech, participants presented and discussed what the concept of “energy security” means in a legal context and also the right balance in forging a strong and sustainable energy security strategy in the midst of competing legal paradigms of investment, national security, environmental, international trade and energy regulatory law.

A notable highlight was the keynote talk by Commissioner William C. Ostendorff of the U.S. Nuclear Regulatory Commission.

Speaking from a regulator’s perspective, Ostendorff discussed energy security issues and the legal framework of nuclear energy regulation at both the domestic and the international levels. He also commented on the need for international cooperation within the realm of energy safety and security issues in light of the continued increase in global energy demand, deepening environmental pressure and the global population’s need for access to affordable and reliable energy resources.

Moderated by third-year law students, conference panels were clustered around a variety of salient topics within the theme of energy security:

- nuclear energy safety and security measures operating at the international level.
- the issue of international nuclear liability examined through both a domestic and an international lens.
- the effect of fragmentation of energy regimes under the umbrella of international law.
- the impact of Russia’s recent accession to the World Trade Organization colliding with the potential for WTO regulation of international energy markets.
- the vital role energy plays in the exploration of a sustainable, long-term global energy security strategy engaging developed and developing countries.

—Halley E. Espy, executive conference editor of the *Georgia Journal of International and Comparative Law*



American Society of International Law Midyear Meeting

The American Society of International Law Midyear Meeting and Research Forum will take place this fall in Atlanta and at Georgia Law in Athens. It will coincide with the 35th anniversary of the law school’s Dean Rusk Center for International Law and Policy. Fittingly, Dean Rusk, a former member of the law school faculty, was honorary president of ASIL while U.S.

Secretary of State; moreover, Louis B. Sohn was ASIL president while serving as the inaugural holder of Georgia Law’s Woodruff Chair in International Law.

**October 19–21, 2012
Atlanta/Athens**

For more information, please visit www.asil.org/midyear.

Highlights will include a career fair, panel discussions, keynotes, the Second Annual ASIL Research Forum and the launch of a regional interest group, ASIL Southeast, as well as the fall meeting of the society’s executive council.



Writer shares insights on Zimbabwe

Award-winning author Peter Godwin (center) spoke with Dean Rusk Center Director Don Johnson (J.D.’73) and Assistant Director Laura Kagel (J.D.’06) prior to his well-attended lunchtime presentation addressing Robert Mugabe’s dictatorship in Zimbabwe. Drawing on his book, *The Fear*, Godwin shared vivid accounts of deteriorating human rights and economic conditions in a country that was once considered a model for post-colonial Africa and discussed factors that have kept Mugabe from being held accountable under international law.