1-1-2009

Newsletter, Spring/Summer 2009, vol. 4, issue 1

The Dean Rusk International Law Center

Repository Citation
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Gary Born—a leading practitioner in the field of international arbitration and author of a new treatise on the subject—recently visited the School of Law to take part in a Rusk Center conference examining the state of international commercial arbitration fifty years after the New York Convention, which is widely considered the foundational instrument guiding international commercial dispute resolution. The conference, co-sponsored by the Georgia Journal of International and Comparative Law, featured Mr. Born as keynote speaker and included several leaders in the field, including Robert Davidson, Executive Director of JAMS Arbitration Practice; William K. Slate, III, President of the American Arbitration Association; and Anne Marie Whitesell, former Secretary General of the ICC International Court of Arbitration.

Twenty percent of first year class participates in 2008 Rusk Center summer programs

Two of the most important offerings of the Rusk Center are our study abroad and global internship programs, which allow students the opportunity to follow legal coursework and apply legal skills in diverse, international settings. The recent growth of this aspect of the Rusk Center’s work has provided a substantial boost to Georgia Law’s international profile. In 2008, over twenty percent of Georgia Law’s first year class participated in Rusk Center international summer programs. Several rising third year students also participated in our programs. In this edition of the newsletter, we feature five Rusk Center summer program alums who share a few thoughts about their international experiences.

For more information about Rusk Center summer programs, please visit: www.uga.edu/ruskcenter/

–see page 7

Gary Born delivering his keynote address at the Rusk Center.
Recent Publications

Rusk Center 30th Anniversary Publication Features Full Transcript of Secretaries of State Conference

For more information on ordering copies of Rusk Center Occasional Papers, please contact April Mácková at macakova@uga.edu or 706.542.7875.

Spring 2009 Colloquium Series Speakers

Since 2006, the International Law Colloquium has brought leading international law scholars to the Rusk Center and the University of Georgia to present substantial works-in-progress before UGA students and faculty. This program is made possible through the Kirbo Trust Endowed Faculty Enhancement Fund.

For further information on the colloquium, please contact Harlan Cohen (hcohen@uga.edu).

January 23 Elena A. Baylis (Associate Professor of Law, University of Pittsburgh School of Law), "Bellwether Trials"

January 30 Carlos M. Vázquez (Professor of Law, Georgetown University Law Center), "Not a Happy Precedent: The Story of Ex parte Quirin"

February 6 – Thomas H. Lee (Professor of Law, Fordham Law School), "The International Laws of War and the American Civil War"

February 20 – Monica Hakimi (Assistant Professor of Law, University of Michigan Law School), "A Theory of State Bystander Responsibility"

February 27 – David Zaring (Assistant Professor, Wharton School of Business), "Why Do Some Regulatory Networks Fail, While Others Succeed?"

March 20 – Andrea K. Bjorklund (Professor of Law, UC Davis School of Law), "State Immunity and the Enforcement of Investor-State Arbitral Awards"

April 3 – Paul Stephan (Professor of Law, University of Virginia School of Law), "Privatizing International Law"

April 17 – Rachel Brewster (Assistant Professor of Law, Harvard Law School), "Trade and Climate Change: Conflicts and Solutions"
The highlight of our 2007-2008 academic year—in which we celebrated the 30th Anniversary of the creation of the Dean Rusk Center—was the highly successful roundtable-style conference of former U.S. Secretaries of State. Before an audience of 2,000-plus, Secretaries Henry Kissinger, James Baker III, Warren Christopher, Madeleine Albright, and Colin Powell discussed issues ranging from the closing of Guantanamo Bay to future relations with Pakistan to the need for educational reform in United States, and provided valuable insight during the “Report of the Secretaries of State: Bipartisan Advice to the Next Administration.”

This event is memorialized in the 30th Anniversary publication of our Occasional Papers series (see opposite page), which includes a full transcript of last year’s “Report of the Secretaries of State,” as well as three lectures by highly distinguished recent visitors to the Rusk Center: Lee H. Hamilton, former Congressman, vice-chair of the 9/11 Commission, and co-chair of the Iraq Study Group; Daniel R. Fung, QC, former Solicitor-General of Hong Kong; and Diana Wallis, Vice-President of the European Parliament. An additional publication (see opposite page), “The International Fight Against Terrorism: A Colloquium on the Prospects for Further Cooperation Between the European Union and the United States” (Vandeplas Publishing 2008), contains transcripts of a 2008 Rusk Center conference of the same name and is also now available.

Also in 2008, the Rusk Center appointed a new Board of Advisers to provide guidance to the Center and its staff in performing its mission. The Board is made up of members with extensive experience in international law and policy from both the public and private sectors. They are: Senator Johnny Isakson (R-GA), who serves on the Senate Foreign Relations Committee; Congressman Jim Marshall (D-GA), who serves on the House Armed Services Committee; Ben Barkley of Kilpatrick Stockton (Atlanta); Kevin Conboy of Paul, Hastings, Janofsky & Walker (Atlanta); Tom Harrold of Miller & Martin (Atlanta); Peter White of The Southern Center for International Studies (Atlanta); Audrey Winter, Deputy Assistant U.S. Trade Representative for China Affairs (Washington, D.C.); Hon. Ted Kassinger of O’Melveny & Myers (Washington, D.C.); Ken Klein of Mayer Brown (Washington, D.C.); Stephen Spinks of Sidley Austin (Brussels); and our chairman Hon. Charlie Hunnicutt of Troutman Sanders (Washington, D.C.). We held our first meeting at the U.S. Capitol in Washington in April 2008 and our second meeting in Atlanta in February 2009.

In 2009, the Center has been very active with conferences and lectures, including a conference on international commercial arbitration (see cover); a lecture by two former career U.S. diplomats (see page 4); a visit by a highly distinguished delegation of lawyers and judges from India, led by the Chief Justice of the Supreme Court of India (see page 6); and the expansion of Rusk Center international summer programs (see pages 7–9). And as always, the Center continues to support visiting scholars (see page 10), our International Judicial Training Program, and our stated mission of providing a complementary resource to the State of Georgia and the nation on issues of trade and investment (see page 11).

Our summer programs this year have again attracted great response with nearly 70 students participating in internships in 17 countries around the world and/or studying for three-plus weeks in Europe or China. In the fall of 2009, we are planning a conference on international trade—a subject of much interest with the new administration now taking what seems to be a different approach from the 2008 Obama campaign themes, and with the multilateral trade regime in Geneva currently waiting on the United States to make the first move.

We thank you for your interest in the work of the Dean Rusk Center, and we invite you to join us as we continue to provide international law programs, host events and publish materials that illuminate issues of international importance for members of the Georgia Law community, the University, the State of Georgia, and beyond.
The Dean Rusk Center plays an active role in the international arena by hosting conferences and lectures that bring scholars, practitioners, government officials, business leaders, students and alumni together to discuss relevant international law and policy issues. These Rusk Center events seek to increase the understanding of international law and policy decisions, as well as explore solutions to challenges of global significance. Past meetings have been comprised of a wide array of national and international panelists and participants, including ambassadors, congressmen, senior-level government officials, United Nations representatives and military officers.

Selected events are published by the Rusk Center in the *Occasional Papers Series* or in the *Georgia Journal of International and Comparative Law*. To access select *Occasional Papers* online, please visit: [www.uga.edu/ruskcenter/publications.html](http://www.uga.edu/ruskcenter/publications.html). To order hard copies of *Occasional Papers*, please contact April Macákóvá at macakova@uga.edu or (706) 542-7875.

**Former diplomats share thoughts on Obama’s foreign policy**

Earle and Barbara Scarlett, who shared their personal views on President Obama’s foreign policy plans at a recent event sponsored by the Dean Rusk Center, have a combined 50-plus years of global diplomatic experience. As a tandem couple, the recently retired U.S. Foreign Service Officers had joint overseas diplomatic assignments in Cameroon, Brazil (twice, during the transition from military to civilian rule and subsequently), the Philippines (during the overthrow of Ferdinand and Imelda Marcos), the former Yugoslavia (during its dissolution), and Ireland (implementing the Good Friday Agreement). Earle also served in Bosnia on the international diplomatic team implementing the Dayton Peace Accords.

The Scarletts’ joint lecture, presented in cooperation with the Department of International Affairs and the Carl Vinson Institute of Government, focused on the diplomatic challenges that lay ahead for the Obama Administration, as well as on some of the domestic concerns that impinge on U.S. foreign policy makers. A discussion and Q&A with students and faculty followed the presentation.

For a streaming audio file of the event, please visit: [www.uga.edu/ruskcenter/conferences.html](http://www.uga.edu/ruskcenter/conferences.html)

**International arbitration conference** —continued from front

Notable academics, such as Columbia University Law Professor George A. Bermann and New York University Law Professor Linda Silberman, also served as panelists during the conference and took part in roundtable style discussions.

“Our goal was to assemble an elite group of academics and practitioners to reflect on the future of arbitration, both in the United States and internationally,” Georgia Law Associate Professor and conference co-organizer Peter “Bo” Rutledge said. “It is pretty exceptional for these people to be in the same room at the same time.” Mercedes Ball, third-year law student and conference co-organizer, added that given the current attention paid to the reform of arbitration law and the recent 50th anniversary of the New York Convention this conference was very timely.

Mr. Born, who marked the occasion by introducing his newly published treatise on international commercial arbitration, focused his remarks on the continued growth of commercial arbitration, especially at the international level, due in large part to the robustness and efficacy provided by the New York Convention.
“In 1993, the main institutions reported roughly 1,300 arbitrations. In 2007, the number was 3,200—a fairly dramatic increase… that, in fact, doesn't come close to capturing the very significant increase in arbitrations at regional centers around the world,” Mr. Born explained; adding that the robust legal framework of the New York Convention has provide reason, over the last twenty years or so, for an increasing number of states—not typically categorized as developing and not historically in support of commercial arbitration—to basically give effect to international arbitration.

In addition to the relative efficiency, flexibility and enforceability provided by arbitration, Mr. Born posited that there may be another, more fundamental reason that parties increasingly arbitrate and states increasingly give effect to international arbitration: “Arbitration as an associational freedom, of sorts, is fundamentally important to why parties arbitrate and why nations, developed nations in particular, have encouraged and adopted pro-arbitration legislation.”

Mr. Born went on to propose that arbitration is, in fact, an expression of party autonomy, with “parties choosing to resolve their disputes… a fundamentally important aspect of their relationship, in a particular way, in a manner that they chose between themselves.” This system, according to Mr. Born, has its roots in the trade associations and religious associations of the Middle Ages, when members of those communities chose to have their disputes resolved in a manner designed and tailored to their specific needs, and under their particular control. Mr. Born further suggested that the link between arbitration and autonomy can be gleaned from historical examples of totalitarian regimes curtailing the right to arbitrate as a means of furthering their efforts to control “everything.” From the Napoleon dominated era of post-revolutionary France to the National Socialist Germany of the 1930s to more contemporary totalitarian regimes of today, Mr. Born believes that, due to the fundamental aspect of arbitration as an associational liberty, a link can be seen between states that are most hostile to arbitration and states that are most hostile to other types of freedoms.

In closing, Mr. Born suggested that the “constitutional” nature of the documents—the New York Convention and the Federal Arbitration Act (FAA)—forming the legal regime of arbitration, supports the position that these “constitutional instruments,” which essentially work, should not be readily amended or tinkered with. In addition to structural similarities to the U.S. Constitution—such as being relatively brief, super-majoritarian approved documents—the New York Convention and the FAA also share a substantive similarity to the Constitution—namely, they each serve, in an important way, to mediate between private autonomy and regulatory interests, Mr. Born explained. Furthermore, Mr. Born continued, “in another of the parallels between the Constitution on the one hand and the New York Convention and the FAA on the other, it has been mostly by common law development that [these] instruments have been articulated.” Thus, Mr. Born suggests, rather than legislatively revising these “constitutional” documents of arbitration, there is room—in the courts, in the restatements, and in academia—for common law development of the principles of arbitration, both domestic and international.

For streaming audio files of the event, including Gary Born’s keynote address, please visit: www.uga.edu/ruskcenter/conferences.html
The Honorable Mr. K.G. Balakrishnan, Chief Justice of the Supreme Court of India, spoke on April 6 at the Hatton Lovejoy Courtroom in the School of Law’s Hirsch Hall. A native of India, Chief Justice Balakrishnan began his career in law as an advocate of the Kerala Bar Council in 1968. In 1985, he was appointed as a judge of the Kerala High Court. He was transferred to the Gujarat High Court, becoming its chief justice in 1998. He then served on the High Court of Judicature in Madras, where he became chief justice, before being elevated to the Supreme Court of India in 2000. He became chief justice in 2007.

His lecture, “Individual Rights in India: A Perspective from the Supreme Court,” was sponsored by the Rusk Center as part of a two-day visit of the law school and Center by the Chief Justice, The Honorable Dr. Justice Arijit Pasayat of the Supreme Court of India, and several high-ranking members of the Ministry of Law and Justice, and the Indian Law Institute. During their visit, the distinguished delegation toured the law library and the law school, lunched with faculty members to discuss constitutional law issues, met with the directors of the Rusk Center to explore future cooperation on international outreach programs, and greeted students at an afternoon reception held in Rusk Hall.

For a streaming audio file of the lecture, please visit: www.uga.edu/ ruskcenter/conferences.html
Georgia Law students share their thoughts about summer experiences in 2008 Rusk Center international programs

Daniel Tilley
Third year law student who worked in East Africa in 2008

Last summer I spent nearly eleven weeks at the trial chamber for the International Criminal Tribunal for Rwanda (ICTR). I worked as a law clerk in Trial Chamber II. The case to which I was assigned is called Ndindiliyimana, et al. (colloquially called “Military II”) a multi-accused case involving four defendants, each of whom held a high-ranking position in the Rwandan Armed Forces in 1994. The case has been running for several years and is still ongoing. Much of my work consisted of analyzing defense witness testimony and assessing credibility. My job was to take the confused, disorganized, and contradictory testimony and turn it into something concise, articulate, and relevant to the indictment. In this sense, I served as a kind of advocate for the witnesses. My other work consisted of drafting decisions to various motions filed by the lawyers. I found this work particularly satisfying because I was essentially doing the judges’ work and then having them sign off at the end. (Of course, once I drafted the decision, it was passed around to the others on my team for review.) Motion work was especially interesting because of the various tasks it required one to perform. One always has to be careful with motions because lawyers will often mischaracterize the law and the content of the attached documents; I enjoyed this because it kept me on my toes.

As far as my life outside of work, East Africa was a fantastic place to see. While Arusha is a rather touristy town (with lots of aggressive vendors on the street), the surrounding areas are wonderful. I tried to do something cultural every weekend, and I feel that I benefited from it greatly. As a whole, the internship was a fantastic experience and I would recommend it to anyone who wants to break into the UN system (my supervisor even told me that if I wanted to work at the Appeals Chamber after graduating law school, he would recommend me).
It is said that the only foreigners who venture to the South Pacific island of Papua New Guinea are missionaries, mercenaries, or misfits. Since I am none of the above, it was hard to explain my presence there the last two summers, which I spent working for the country’s only law school through the Rusk Center’s Global Internship Program. There are several explanations: The internship—which involved the editing and publication of Papua New Guinea’s Supreme Court decisions—was a wonderful professional opportunity; It also provided crucial help to the country’s judicial system; On a more personal note, I wanted to follow in the footsteps of my grandfather and uncle, who both spent years in the country as soldier and professor, respectively; And, I knew that traveling in Papua New Guinea would be a once in a lifetime experience.

It certainly was. I loved waking at six to the sound of barking dogs, taking a cold shower, and pitter pattering around my flat in preparation for the day; driving to the university in the mornings, always amazed by how the sun silhouetted the surrounding mountains. I enjoyed the long workdays, my little office with its ants and broken armchair, and the welcoming smiles of the staff. The nationals, with their impervious optimism, found my foreign nationality interesting and not divisive. I mingled with the expat community—the doctor from Sierra Leone and his Latvian wife, and the British historian who wore traditional African dress. There were, of course, things I didn’t like: crime was prevalent, the heat oppressive, and the electricity unreliable. But those were small sacrifices to make for the invaluable experience of living and working in Papua New Guinea. I’m very thankful for the opportunity.

Matthew Bennett
Second year law student who studied and worked in China in 2008

Last summer I participated in the School of Law’s study abroad program in China. The program’s classes gave me a quick but thorough introduction to international trade and Chinese law, and spending time with other students was a great way of acclimating to Chinese culture. Following the study abroad program, I spent six weeks at King & Wood, one of China’s largest firms. When I arrived, I didn’t know how helpful I would be given my limited legal knowledge after only one year of law school and my inability to speak or read Chinese. However, since English is so widely used in international transactions, I soon found myself reviewing many contracts and documents for which the official versions were in English. My internship took place just before the Beijing Olympics, and since the firm represented the Beijing Olympic Committee, I was able to work on some last-minute details related to the games and found that particularly interesting. Also, despite only having learned about international trade disputes process in one of the China program’s courses, that experience helped me generate arguments from past international trade dispute reports and use them to analyze and evaluate new potential claims.

Outside of work, I was really struck by how friendly and helpful the people of Beijing were, which certainly helped during my time there. I found the experience of immersing myself in Chinese culture informative on many levels. It also helped me to appreciate how we, as Americans, are viewed by the Chinese. I am glad I participated in both programs. The entire experience has proven useful to my legal education.
Russell Edwards
Second year law student who studied in China, and both studied and worked in Brussels in 2008

The Dean Rusk Center offers incredible opportunities for law students to study abroad and see the world. I enrolled in three of the Center’s programs, giving me the chance to fly around the world after my first year of law school to take classes in China and Belgium, as well as to participate in an internship at the law offices of Jones Day in Brussels.

My first stop was Beijing, the cultural and political heart of China. While there, I took classes at Tsinghua University with students from China and the U.S. The instruction there offered invaluable insight into the Chinese legal system. The courses at Tsinghua also presented a unique opportunity to learn about global trade as taught by Ambassador C. Donald Johnson, whose extensive contacts gave program participants high level access to Chinese officials. One day, the Chinese Ministry of Commerce hosted our group, and we engaged in a heated discussion over the looming global financial crisis and other political matters. My second stop in the program was Shanghai, the commercial capital of China and a very chic city. I spent two weeks there while studying at Fudan University. Fudan’s teachers continued instruction in the Chinese legal system with a focus on commercial law.

I was sad to leave China, though I was excited to continue my journey to Brussels, Belgium. For students interested in a career in international law or in Europe, the Brussels program offers a great way to enhance contacts and knowledge of the field. As official seat of the European Parliament, a powerful legislative body of the European Union, Brussels hosts a diverse mix of diplomats from all over the world. After my time studying, I moved from student housing to the Congolese neighborhood and began working for the firm Jones Day as a participant in the Rusk Center’s Global Internship Program. While there, I worked on telecommunications policy and helped craft a survey to send out to select member states of the EU.

Daniel West
Second year law student who worked in Nova Scotia in 2008

For two months this past summer, I was fortunate enough to work for the Regional Crown Attorney at the Public Prosecutor’s Office in Nova Scotia, Canada. Regional Crown Attorneys are the equivalent of our District Attorneys here in the States, and are given the duty of prosecuting any person charged with a criminal offense. When I started working at the Public Prosecutor’s Office, I was fresh out of my first year of law school and had no prior experience with the criminal justice system of Canada, so to say that I was a little nervous those first couple days would be a huge understatement. Luckily, the Canadian and U.S. criminal justice systems are not that different from one another and I was able to keep up with the fast pace of everything that was going on around me.

Over the two months that I was in Nova Scotia, I attended fifteen trials, ranging from arson and murder to simple assaults and shoplifting cases, rode along with on-duty police officers, interviewed witnesses and defendants in mental health facilities and jails, and attended several parole board hearings. I wasn’t sure what to expect from this experience, but I was pleasantly surprised at how in depth my involvement with the cases were and how much real world experience I gained. For the first time, the law that I had been studying for the past year had come to life and I was able to take part in depositions, witness interviews, and trial preparations. Add to this the fact that I was living in the beautiful coastal city of Halifax, which offered some of the best hiking and surfing that I have ever encountered, and you can understand why I had one of the best and most valuable summers of my life.

Russell Edwards enjoys the view from the Mutianyu section of the Great Wall.

Daniel West exploring the coastal cliffs of Nova Scotia.
Environmental policy analyst works with School of Law professor in 2008

Harro van Asselt is researcher at the department of Environmental Policy Analysis at the Institute for Environmental Studies (IVM) of the Vrije Universiteit Amsterdam since November 2002, and has been a research fellow with the Multiple Options, Solutions and Approaches: (Institutional) Interplay and Conflict (‘MOSAIC’) group of the international Global Governance Project (Glogov.org) since July 2005.

Harro was a visiting research scholar at the Dean Rusk Center from October to December 2008, working with Professor Dan Bodansky, Associate Dean for Faculty Development and Emily and Ernest Woodruff Chair in International Law. In this period, he conducted research on the prospects of including trade measures in U.S. climate change legislation. Various proposed bills in the Congress propose these ‘border adjustment measures’; however, both their compatibility with world trade law and their political and economic effectiveness have been questioned by observers. Following a short stay in Washington, D.C., where he conducted interviews with key experts on this issue, he spent his time in Athens carrying out a literature review to assess the feasibility of the trade measures.

Harro had the following to say about his experience: “Athens was everything I had imagined a U.S. college town would be: small, cozy, but very lively. The School of Law and Professor Bodansky were wonderful hosts, and provided me with everything I needed, including access to a great library. Overall, it was a very pleasant experience.”

Chinese scholars to visit in 2009

Up to three legal scholars from China are anticipated to visit the School of Law in 2009 for research in the fields of constitutional law and international trade.
The Dean Rusk Center develops projects that serve to expand the international dimensions of teaching, scholarship and outreach at the School of Law. These projects originate primarily through staff initiatives, but also from external requests and personal initiatives of Georgia Law faculty and students. The Center works with interested national and international agencies and institutions on projects of mutual interest, providing support through project identification, creation and development, background research, funding and administration.

Rusk Center director works with state and national leaders

As part of the Rusk Center’s stated mission of providing a complementary resource to the State of Georgia and the nation on issues of trade and investment, director of the Center, Ambassador C. Donald Johnson, provided personal expertise at both the state and national levels on trade matters in 2008. For the State, Ambassador Johnson assisted in the planning and creation of Georgia’s first trade and economic development office in China.

“The China office is a critically important move for Georgia,” Johnson has said. “China has the fastest growing economy in the world, and is likely to have a significant fiscal impact on many industrial sectors for most of this century. It is imperative that we be strategically engaged in China to enhance job development in Georgia.”

Upon the invitation of President George W. Bush, Ambassador Johnson also traveled to Washington to meet with the president and several high-ranking current and former trade officials. The meeting centered on President Bush’s free trade agreements with Peru, Columbia, Panama and South Korea.

International Judicial Training Program continues work with foreign judiciaries

The Dean Rusk Center’s IJTP, in cooperation with the Institute of Continuing Judicial Education, has provided training in topics such as court administration, judicial budgeting, caseload management, alternative dispute resolution, court technology, and judicial ethics and technology for over 400 foreign judges and other legal professionals from Brazil, Argentina, Armenia, Guyana, Ghana and Egypt.

“For over ten years, the IJTP has provided a valuable training resource for foreign judiciaries at the University of Georgia,” program director Maria Gimenez explained. “The methodology used in the program provides not only comprehensive training for the visiting participants, but also the opportunity for dialogue amongst the foreign practitioners and our experts, who include local and state judges, practitioners and faculty from the School of Law. This exchange helps to broaden the understanding of law for both parties.”

In December 2008, a group of 52 Brazilians—including an attorney general, seven federal justices and four state chief justices—spent two weeks in the program training in Atlanta and Athens. Upcoming programs include training for drug court administration and overall judicial training for two separate groups from Brazil and Argentina.
Clockwise from bottom left; Henry Kissinger, Warren Christopher, Terence Smith (moderator), James Baker III, Madeleine Albright, and Colin Powell at the 16th Report of the Secretaries of State sponsored by the Dean Rusk Center and the Southern Center for International Studies.