



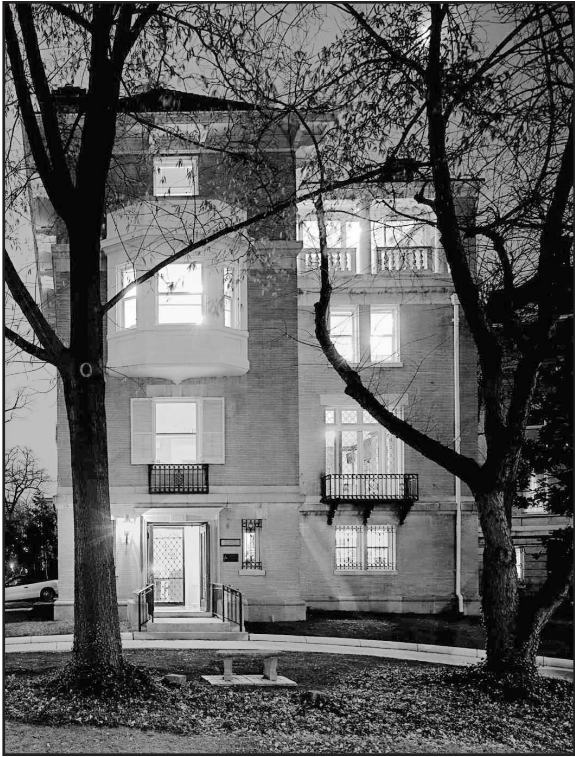
# Mapping New Boundaries:

SHIFTING NORMS IN  
INTERNATIONAL LAW

THE AMERICAN SOCIETY OF  
INTERNATIONAL LAW  
98th Annual Meeting

March 31-April 3, 2004  
Loews L'Enfant Plaza Hotel  
Washington, DC

FINAL PROGRAM



*Tillar House*

March 31, 2004

## **Welcome to the 98<sup>th</sup> Annual Meeting!**

For 98 years, ASIL members have gathered in the spring at the Annual Meeting of The American Society of International Law. While the ritual of gathering has not changed over the decades, each year brings new features to our meeting, and 2004 is no exception.

- For the third year in a row, a Justice of the U.S. Supreme Court will give the meeting's Keynote Address. This year, we welcome Justice Antonin Scalia.
- For the first time, the recipient of the Society's Manley O. Hudson Medal will give a lecture on the occasion of the award. Professor Michael Reisman, who is the 2004 recipient of the Medal, will speak on "Why Regime Change is (Almost Always) a Bad Idea."
- For the first time, the Program Committee initiated a call for papers and peer review process on a selected topic for one of the Annual Meeting panels. The panel is New Directions in International Environmental Law.

Starting from the theme, Mapping New Boundaries: Shifting Norms in International Law, the 98<sup>th</sup> Annual Meeting's Program Committee worked tirelessly under the leadership of Co-Chairs Hannah Buxbaum and Janie Chuang to organize this exceptional program. We owe them and the Program Committee, as well as the many speakers and panelists who will be contributing their time and knowledge over the next two and a half days, a debt of gratitude.

But organizing the program is only the beginning. It is your active participation and engagement that makes this an Annual Meeting. We look forward to hearing from you, through questions, comments, and conversation. On behalf of the officers and staff of The American Society of International Law, welcome.

*Charlotte Ku*  
*Executive Director*

# *Mapping New Boundaries: Shifting Norms in International Law*

The meaning, impact, and relevance of international law are the focus of public attention as never before. That attention has invited a re-examination of the content and operation of international law, and suggests that international law is in the midst of substantial change. States and institutions are rethinking and expanding the systems of norms and standards in which they function, and developing new strategies to resolve global problems. These changes raise some very large questions. How is international law evolving in the context of these shifts in the norms developed and applied by state and non-state actors? Does international law still work at all in certain areas? Does international law really matter?

The shifting norms in international law are evident in a variety of areas, including:

- Increasingly complex linkages between previously discrete areas of international law (e.g., the linkages between human rights and development; between trade law and areas such as labor law, environmental law, and competition law).
- The debate about the appropriate circumstances in which to use military force, from the perspectives of traditional public international law doctrine, just war theory, and the practical standpoints of the public at large in affected states.
- Shifts from state-centric notions of national security to the concept of “human security” (e.g., the creation of the Human Security Commission to combat adversities such as armed conflict, poverty, infectious diseases, and human rights violations).

- Efforts to move beyond the regulation and coordination of transnational actions and interests by promoting a notion of “global public goods” (e.g., global climate stability; global public health; equitable access to intellectual property).
- New challenges in managing the relationship between international law and domestic law (e.g., intersection of U.S. constitutional law, federalism principles, and international law; the development of transnational regulatory strategies; increasing demand on national courts to refer to and apply international law).
- The strengthening and development of concepts of individual and corporate liability for violations of international law (e.g., International Criminal Court; criminal liability for former heads of state; civil lawsuits against corporations for human rights violations).

The 98<sup>th</sup> Annual Meeting seeks to identify and evaluate the content of these shifting norms and their implications for international law and international actors. How do they affect the impact of international rules on state and non-state actors? Do they make these actors stronger and more effective, or do they undermine their continued viability? Are the shifts similarly perceived, and their consequences similarly appreciated, in all regions of the world? Where is a consensus on standards and practices emerging? Will these shifts produce a stronger or weaker system of international law?

## 2004 Program Committee

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# *General Information*

## **Meeting Location**

Loews L'Enfant Plaza Hotel  
480 L'Enfant Plaza, SW  
Washington, DC 20024  
Phone: 202-484-1000

## **On-site Registration**

The ASIL registration desk is located in the Solarium on the main floor. It will be open as follows:

|                     |                 |
|---------------------|-----------------|
| Wednesday, March 31 | 2:00 pm–8:00 pm |
| Thursday, April 1   | 8:00 am–6:00 pm |
| Friday, April 2     | 8:00 am–6:00 pm |
| Saturday, April 3   | 8:00–11:00 am   |

## **Badges & Tickets**

Badges must be worn for admittance to panels. Tickets are needed for the WILIG Luncheon, box lunches, and the Annual Dinner. Lost tickets will not be replaced. No tickets will be sold on-site.

## **ASIL Services**

Credit card transactions can be made at the ASIL Exhibit Booth by those wishing to buy the latest ASIL products.



## **Save the Dates for Future ASIL Annual Meetings!**

The 99<sup>th</sup> Annual Meeting, March 30–April 2, 2005;  
Loews L'Enfant Plaza Hotel, Washington, DC.

The 100<sup>th</sup> Annual Meeting, March 29–April 1, 2006;  
Fairmont Washington Hotel (formerly the Washington Monarch), Washington, DC.

The 101<sup>st</sup> Annual Meeting, March 28–31, 2007;  
Fairmont Washington Hotel, Washington, DC.

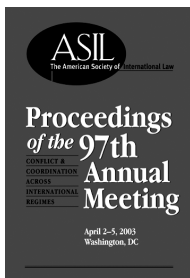


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# *Who's Here This Year?*

## **ANNUAL MEETING SPONSORS**

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**SPEAKERS, LECTURERS, PANELISTS**

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Lama Abu-Odeh  
Adeno Addis  
Philip Alston  
David Andrews  
Antony Anghie  
Evelyn Ankumah  
Abdullahi An-Na'im  
Scott Barrett  
Upendra Baxi  
Paul Beaumont  
John Bellingr  
Lisa Bhansali  
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- Substantial discounts on ASIL books, multimedia resources, occasional papers, and other publications.

*To learn more about the Society and to register for membership, visit the ASIL exhibit booth.*

# Wednesday

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**March 31, 2004**

9:00 am–3:00 pm

**ASIL Executive Council Meeting** – *Quorum Room*

2:00 pm

**Registration Opens** – *Solarium*

6:30–7:45 pm

**Sixth Annual Grotius Lecture** – *Grand Ballroom*  
*Markets, Democracy, and Ethnic Conflict*

**Lecturer:** AMY L. CHUA, Yale Law School

**Distinguished Discussant:** UPENDRA BAXI,  
University of Warwick School of Law

**Moderator:** DANIEL BRADLOW, American  
University Washington College of Law

*Cosponsored by American University Washington College  
of Law*

7:30–11:00 pm

**AJIL Board of Editors Meeting/Dinner** – *Renoir  
Room, Second Floor*

7:45–9:00 pm

**President's Reception** – *Monet Ballroom, Second Floor*

*Cosponsored by American University Washington College  
of Law*

Wednesday, March 31, 2004

# Thursday

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**April 1, 2004**

7:45–8:45 am

**Interest Group Business Meetings**

Africa – *Ballroom B*

Human Rights – *Ballroom D*

Private International Law – *Ballroom A*

UN21 – *Ballroom C*

9:00–10:30 am

**PANELS AND LECTURE**

**Shifting Norms in Public Health Law –  
*Ballroom A***

This panel will examine the burgeoning field of international health law with a special emphasis on evolving concepts of health and human rights as well as human security. The panel also will consider the implications of global change for international actors involved in contemporary global health governance.

**Chair:** STEPHEN P. MARKS, Harvard School of Public Health

**Panelists:** SCOTT BARRETT, Johns Hopkins University School of Advanced International Studies; GIAN LUCA BURCI, World Health Organization; KATHERINE GOROVE, U.S. Department of State; ILONA KICKBUSCH, Yale School of Public Health, and Pan American Health Organization; ALLYN TAYLOR, University of Maryland School of Law

**Investor-State Disputes and the Development of International Law – *Ballroom B***

The panelists will examine (including from the perspective of developing countries) whether recent investment cases have exposed basic gaps in international law, and whether and how these gaps can be filled. The panel also will ask whether and how customary international law is being influenced by the concordance of provisions in different bilateral investment treaties.

Thursday, April 1, 2004

**Moderator:** SAMUEL WORDSWORTH, Essex Court Chambers

**Panelists:** VAUGHAN LOWE, Oxford University; NUDRAT MAJEED, London University; JUDGE STEPHEN M. SCHWEBEL, Washington, DC; VAN VECHTEN VEEDER, Essex Court Chambers

### **Preventing Genocide and Crimes Against Humanity – Ballroom C**

The genocide in Rwanda of ten years ago caused many to wonder whether those states entrusted with the security of the world through the Security Council had failed to fulfill the responsibility that their privileged role demanded. Has a decade of reflection led to a greater readiness or more effective mechanisms to prevent or suppress future genocides, or must such measures as an early warning mechanism or a *cordon sanitaire* remain dormant in deference to the principle of non-interference?

**Lecturer:** HOLLY BURKHALTER, Physicians for Human Rights

**Commentator:** JUDGE FAUSTO POCAR, Vice President, International Criminal Tribunal for the former Yugoslavia

**Moderator:** BERNARD HAMILTON, Leo Kuper Foundation, London

10:45 am–12:15 pm

### **PANELS AND LECTURE**

#### **The Alien Tort Claims Act Under Attack – Ballroom A**

The Alien Tort Claims Act (ATCA), or Alien Tort Statute, dates from 1789. Over the past two decades, private claimants increasingly have availed themselves of the ATCA to pursue civil remedies for human rights abuses. These claims have given rise to controversy. The U.S. Supreme Court has stepped into the fray by granting certiorari in the cases of *Sosa v. Alvarez-Machain* and *U.S. v. Alvarez-Machain* (joint oral argument on March 30, 2004). The United States has intervened in this (and other) ongoing

litigation to propose a restrictive interpretation of the ATCA. This panel will examine this recent litigation and the current intervention by the U.S. Panelists will unpack a number of thorny questions. These include: whether ATCA is a jurisdictional statute or creates a private cause of action; ATCA's role in transitional justice from transformative and comparative perspectives; the expanding number of violations and defendants; and the interplay of ATCA litigation with accountability, international trade, foreign policy, and national security.

**Chair:** MARK DRUMBL, Washington & Lee University School of Law

**Panelists:** MARINN F. CARLSON, Sidley Austin Brown & Wood LLP; DOUGLAS LETTER, U.S. Department of Justice; ERIC A. POSNER, University of Chicago School of Law; CRAIG SCOTT, Osgoode Hall Law School, York University; BETH STEPHENS, Rutgers School of Law, Camden

### **Changing Norms in International Development Finance: Transparency, Accountability, and Mission Creep – Ballroom B**

This panel will highlight changing norms in international development finance institutions such as the World Bank, with a special focus on: 1) the dramatic change in the availability of information from and about these institutions; 2) the use of inspection panels and functions to provide a sort of 'judicial review' of these institutions; 3) efforts to open up these institutions to increased participation by NGOs, civil society groups, intended beneficiaries, and others; and 4) the debate over policy proliferation (mission creep)—that is, over whether these institutions are giving too much or too little attention to such issues as human rights, the role of women, environmental protection, and good governance.

**Chair:** JOHN HEAD, University of Kansas Law School

**Panelists:** ROBERT HOCKETT, Yale University; PETER KYLE, The World Bank; ELENA MCCOLLIM, InterAction; HERBERT MORAIS, Dewey Ballantine LLP



## **What Role for NGOs In the Foreign Policy Debate? – Ballroom C**

Recent years have seen a dramatic growth in the role of non-governmental organizations (NGOs) in the development and enforcement of international law, followed by a backlash movement that asks “who elected the NGOs?” While some see civil society as an essential voice that helps fill the democratic deficit in the operations of international organizations, others see them as exercising disproportionate power at the expense of sovereign states. From the perspective of NGOs, their skeptics, and their advocacy targets, this distinguished “Crossfire” panel will debate the appropriate role for NGOs in international law and politics.

**Moderator:** GERALD HYMAN, U.S. Department of State, Agency for International Development

**Panelists:** AMBASSADOR STUART EIZENSTAT, Covington & Burling; JOHN FONTE, Hudson Institute; KENNETH ROTH, Human Rights Watch; ALFREDO SFEIR-YOUNIS, The World Bank; JENNIFER WINDSOR, Freedom House

## **Rethinking Collective Action: The Responsibility to Protect and A Duty to Prevent – Ballroom D**

In 1999, UN Secretary-General Kofi Annan challenged the international community to respond to the emerging challenge of overcoming the barrier of sovereignty in order to address gross violations of human rights. The International Commission on Intervention and State Sovereignty, chaired by Gareth Evans and Mohamed Sahnoun, developed the concept of “The Responsibility to Protect.” In 2003, the Secretary-General once again appealed for new thinking on issues related to preventive action or war. The ASIL/Council on Foreign Relations Roundtable on “Old Rules, New Threats” has considered “A Duty to Prevent” as an approach to determine who decides that preventive action is needed and under what circumstances.

**Lecturers:**

**The Responsibility to Protect:** GARETH EVANS, QC, President, International Crisis Group; Co-Chairman, International Commission on

Intervention and State Sovereignty; and Member, UN Secretary-General's High Level Panel on Threats, Challenges and Change

**A Duty to Prevent:** LEE FEINSTEIN, Deputy Director of Studies and Senior Fellow, Council on Foreign Relations

**Moderator:** CHARLOTTE KU, Executive Director, ASIL

12:30–2:00 pm

### LUNCH HOUR PROGRAMS

#### **Intellectual Property Rights in Global Trade Framework: IP Trends in Developing Countries** – *Ballroom A*

Although traditionally a distinctive area of law, intellectual property is increasingly addressed in the context of international trade regimes. For a number of reasons, including the potentially trade-distorting effects of inadequate protection, narrow protection, or preferential treatment of intellectual property rights, an international standard of minimum protection was established in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) administered by the World Trade Organization. This panel seeks to discuss the legislative trends in developing countries in Asia, Africa, and the Middle East as these countries strive to comply with their international obligations under the TRIPs Agreement, while maintaining their rights to access technology for public health or economic development reasons. The panel is sponsored by the Pacific Rim and Intellectual Property Interest Groups.

**Moderator:** ELIZABETH CHIEN-HALE, Institute for Intellectual Property in Asia

**Panelists:** FREDERICK ABBOTT, Florida State University College of Law; CLAUDIA SCHULZ, Castro, Barros, Sobral, & Gomez; SAMSON YU, Kangxin Partners, PC, Beijing

#### **The Kurdish Issue and Beyond: Territorial Communities Rivaling the State** – *Ballroom B*

For a variety of reasons, be they geopolitical, regional and/or internal, vacuums of power have

opened in various nation-states. These vacuums have given life to the dreams of self-determination of ethnic, religious, or linguistic groups that have perceived themselves as historically oppressed by the dominant group or groups. This panel will use the Kurdish issue as a point of departure for the discussion of territorial power structures competing with, but not fully at par with, established states, as well as their effect and most desirable role within the global community. The panel is sponsored by the Rights of Indigenous Peoples and the Status of Minorities Interest Groups.

**Chair:** SIEGFRIED WIESSNER, St. Thomas University School of Law

**Panelists:** ADENO ADDIS, Tulane University School of Law; AMBASSADOR RYAN CROCKER, National War College; DR. NAJMALDIN KARIM, President, Washington Kurdish Institute

**Commentator:** NICHOLAS KITTRIE, American University Washington College of Law

### **Jus in Bello: Occupation Law and the War in Iraq – Ballroom C**

When does international law require that a belligerent assume the role of an occupying power? What legal obligations does such a status impose and can those obligations be avoided by assuming the mantle of a “liberating power?” This panel will discuss these questions, together with the adequacy of the existing legal framework, in light of the United States’ occupation of Iraq. The panel is sponsored by the Lieber Society Interest Group.

**Moderator:** DENNIS MANDSAGER, U.S. Naval War College

**Panelists:** JOHN BELLINGER, Legal Adviser, National Security Council; JEAN-PHILIPPE LAVOYER, International Committee of the Red Cross; RUTH WEDGWOOD, Johns Hopkins University School of Advanced International Studies

**Women in International Law Interest Group Luncheon/Meeting** – *Quorum Room, Front Lobby*  
**“Trade and Development: The Shift from Free to Fair”**

The speaker will present a look at the role of international trade in developing international norms, fostering development, and promoting women’s rights.

**Speaker:** DR. BEATRIZ MERINO, Former Prime Minister of Peru

**Introducers:** LISA BHANSALI, The World Bank; DORINDA DALLMEYER, University of Georgia School of Law, Dean Rusk Center

2:30–4:15 pm

**Annual General Meeting** – *Ballrooms A, B and C*  
**Elections; Announcements; Awards**

**Panel: Conceiving a Just World Under Law**

Short opening statements by the panelists will kick off a discussion about the ASIL Centennial Theme: A Just World Under Law. What would a just world under law look like? How can it be attained? What can ASIL do to guide its development? Annual Meeting attendees are encouraged to take part in this open discussion.

**Moderator:** ANNE-MARIE SLAUGHTER, Princeton University

**Panelists:** ROSA EHRENREICH BROOKS, University of Virginia; JAMES H. CARTER, Sullivan & Cromwell, and ASIL President; DIETMAR W. PRAGER, Debevoise & Plimpton LLP

4:30–6:30 pm

**Presidential Plenary** – *Ballrooms A, B and C*  
**An Exchange with Former Legal Advisers of the U.S. Department of State**

Panelists will explore perceptions of the role of international law as a useful tool and/or an obstacle to the U.S. in resolving international crises. They will comment on the remark of the late former Legal Adviser Abram Chayes, “Other nations violate international law; the United States just creates precedent,”

as it applied to their experience as Legal Adviser. Panelists will respond to the question: “Did you view the role of the Legal Adviser as including advocacy of policy choices related to international law, or simply as communicating the contents of the law to your clients?”

**Introduction:** MICHAEL P. SCHARF, Case Western Reserve University School of Law

**Chair:** ANNE-MARIE SLAUGHTER, Princeton University

**Panelists:** DAVID ANDREWS, Senior Vice President, PepsiCo, Inc.; HERBERT HANSELL, Jones Day LLP; CONRAD K. HARPER, Of Counsel, Simpson Thacher & Bartlett; MICHAEL MATHESON, George Washington University Law School; ROBERTS B. OWEN, Covington & Burling; DAVIS R. ROBINSON, LeBoeuf, Lamb, Greene & MacRae; ABRAHAM D. SOFAER, Hoover Institution, Stanford University; EDWIN D. WILLIAMSON, Sullivan & Cromwell

6:30–7:45 pm

**Members Reception** – Ballroom D, Foyer, and Solarium

*Cosponsored by Martinus Nijhoff Publishers*

7:30–9:00 pm

**ILSA/ASIL New Professionals Interest Group Joint Program and Reception** – Renoir Room, Second Floor

**Welcome:** JAMES H. CARTER, ASIL President

**Speaker:** JUDGE STEPHEN M. SCHWEBEL

8:00–10:00 pm

**Executive Council Meeting/Dinner** – Degas Salon, Second Floor

**NOTES**

# Friday

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**April 2, 2004**

7:45–8:45 am

**Interest Group Business Meetings**

International Organizations – *Ballroom B*

Lieber Society – *Ballroom A*

Teaching International Law – *Ballroom C*

International Security – *Ballroom D*

7:45–8:45 am

**Hague Academy of International Law**

**Breakfast** – *Quorum Room*

*(Advance registration was required.)*

9:00–10:30 am

**PANELS AND LECTURE**

**The Jurisdiction of the WTO** – *Ballroom A*

The WTO system continues to face controversy with respect to the relationship between trade and “non-trade” issues such as the environment and human rights. Panelists will discuss whether non-trade issues should be dealt with more explicitly within the WTO system as well as the role of the Appellate Body in dealing with non-trade issues.

**Moderator:** ANDREW GUZMAN, University of California School of Law, Berkeley

**Panelists:** JOOST PAUWELYN, Duke University School of Law; DEBRA STEGER, University of Ottawa, and former Director, Appellate Body of the WTO; JOEL TRACHTMAN, Fletcher School of Law and Diplomacy, Tufts University

**Intelligence and the Use of Force in the War on Terrorism** – *Ballroom B*

Over 40 years ago, Fred Ikle famously asked in Foreign Affairs, “After Detection What?” The pre-emptive use of force doctrine of the Bush Administration, most recently evidenced in Iraq, supplies one answer. But that answer begs another question—

Friday, April 2, 2004

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# LAW PROGRAM

## EUROPE

July 4, 2004

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Court, and the Organization for Economic Cooperation and

the United Nations, the International Committee of the Red  
Cross, and the International Labor Organization. (3 credits)

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assuming the preemptive use of force is legitimate, what are the relevant standards for detection? The Iraq debate has put in sharp relief the reliability of intelligence and, more important, the process through which intelligence is analyzed and assessed. The Bush Administration's new use of force doctrine requires renewed attention to the historic tension between, on one hand, the need for robust intelligence collection together with protection of sources and methods, and, on the other hand, transparency in international decision-making, traditional respect for national sovereignty, and emerging norms concerning changing national security doctrine in the war against terrorism.

**Chair:** ELIZABETH RINDSKOPF-PARKER, McGeorge School of Law, University of the Pacific

**Panelists:** M.E. BOWMAN, Federal Bureau of Investigation; TOBY GATI, Akin Gump Strauss Hauer & Feld LLP; JUSTICE RICHARD GOLDSTONE, former Prosecutor, UN Criminal Tribunals for the former Yugoslavia and Rwanda

### **Islam and International Law – Ballroom C**

After exploring issues of the legitimacy and credibility of international law in the present global context, the lecturer affirms this system and then examines possibilities and limitations of its relationship to the Islamic tradition at large. The main focus of the lecture, however, is exploration of ways of promoting a positive and mutually respectful interaction between Islam and international law.

**Lecturer:** ABDULLAHI AN-NA'IM, Emory University School of Law

**Commentator:** LAMA ABU-ODEH, Georgetown University Law Center

**Moderator:** ELIZABETH WILCOX, Office of the Legal Adviser, U.S. Department of State

10:45 am–12:15 pm

**PANELS AND LECTURE**

**The Role of Law in Combatting Official Corruption – Ballroom A**

Official corruption has come to be recognized as an enemy of economic efficiency, democratization, and the rule of law. This panel will address efforts to combat official corruption, particularly the efficacy of anti-corruption laws and conventions. Among other topics, this discussion will consider what factors contribute to the development of international norms against corruption; the efficacy of the OECD, OAS, Council of Europe, and UN anti-corruption conventions; the value and cost-effectiveness of OECD efforts to monitor compliance by signatories; enforcement, including extraterritorial enforcement of the U.S. Foreign Corrupt Practices Act; the role of NGOs such as Transparency International and CEELI; and the effects of embedded cultural patterns of petty corruption and grand corruption.

**Chair:** HOMER MOYER, Miller & Chevalier

**Panelists:** ROBERT LEVENTHAL, ABA Central European and Eurasian Law Initiative; PHILIP NICHOLS, The Wharton School, University of Pennsylvania; SUSAN ROSE-ACKERMAN, Yale University; PAUL B. STEPHAN, University of Virginia School of Law

**Accountability for War Crimes: What Roles for National, International and Hybrid Tribunals? – Ballroom B**

In recent years, the number and types of fora in which to hold war criminals and human rights abusers accountable—from the ICC to the UN Security Council-created war crimes tribunals, to hybrid domestic and international courts, to domestic prosecutions, to transnational prosecutions under theories of universal jurisdiction, to truth and reconciliation commissions—has proliferated dramatically. Indeed, for many, the debate has shifted from whether such fora should exist, to potentially even more complicated questions concerning the advantages and disadvantages of each mechanism and the relationships

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among them. This panel will engage this debate and consider the various accountability mechanisms, comparing their procedures, substantive legal norms, and underlying goals. The panel also will address whether to view the different mechanisms as complementary rather than mutually exclusive alternatives and, if so, what difficulties may arise in coordination.

**Chair:** LAURA DICKINSON, University of Connecticut School of Law

**Panelists:** ALLISON M. DANNER, Vanderbilt University Law School; DAVID J. LUBAN, Georgetown University Law Center; WILLIAM SCHABAS, National University of Ireland; JUDGE PATRICIA WALD, Open Society, DC, and former Judge on the International Criminal Tribunal for the former Yugoslavia

### **Empirical Work in Human Rights – Ballroom C**

Is it possible to measure the effectiveness of human rights instruments? Do the data suggest that we need to rethink the tools of human rights? How should advocates use empirical data? This panel brings together human rights experts to consider these questions and to evaluate the promises and pitfalls of quantitative work in human rights.

**Chair:** STEVEN R. RATNER, University of Texas, Austin

**Panelists:** RYAN GOODMAN, Harvard Law School; OONA HATHAWAY, Yale Law School; KARIN LUCKE, Office of the UN High Commissioner for Human Rights

### **The Institutions of International Intellectual Property Law: New Actors, New Sources and New Structures? – Ballroom D**

International intellectual property norms are now being developed by a wide range of institutions—some national, some international, and some that do not fit neatly into either category; by bodies designed to address intellectual property; by trade and other bodies; and by actors public, private, and indeterminate. This new wave of international norm creation not only augments a growing body of substantive norms

but also raises difficult structural questions about the future development of the international intellectual property system.

**Lecturer:** GRAEME DINWOODIE, Chicago-Kent College of Law, Illinois Institute of Technology

**Commentator:** RUTH OKEDIJI, University of Minnesota Law School

**Moderator:** LAURENCE HELFER, Loyola Law School, Los Angeles, and Princeton University

12:30–2:00 pm

## LUNCH HOUR PROGRAMS

### **Climate Justice: The Prospects for Climate Change Litigation** – *Ballroom A*

In the face of timorous international legal response to climate change, the UN Framework Convention on Climate Change (emasculated further by the decision of the United States not to ratify the Kyoto Protocol to the agreement), a number of nations, state and local governments, and NGOs have begun to explore the prospects for pursuing litigation to protect the interests of those nations most vulnerable to the impacts of climate change. This panel will explore the viability of this approach at the international level, with a focus on the prospects for bringing such actions in specific fora, including the International Tribunal for the Law of the Sea and human rights tribunals. The panel is sponsored by the Wildlife Interest Group.

**Chair:** WILLIAM BURNS, University of Redlands

**Panelists:** DONALD GOLDBERG, Center for International Environmental Law; ANDREW L. STRAUSS, Widener University School of Law; FARHANA YAMIN, Institute of Development Studies, University of Sussex

### **Private International Law Year in Review** – *Ballroom B*

This panel addresses significant substantive and procedural developments in the field of private international law. It focuses on the work of the leading institutions in the field—including the United Nations

Commission on International Trade Law (UNCITRAL), the International Institute for the Unification of Private Law (UNIDROIT), and the Hague Conference on Private International Law—as well as on significant judicial decisions, the status of existing private law conventions, and other developments of interest for academics and practitioners. The panel is sponsored by the Private International Law Interest Group.

**Moderator:** MICHAEL P. VAN ALSTINE, University of Maryland School of Law

**Panelists:** PAUL BEAUMONT, University of Aberdeen, Scotland; HAROLD BURMAN, U.S. Department of State; JEFFREY KOVAR, U.S. Department of State; MERCEDES MAYO, Inter-American Savings and Loan Bank

### **Africa: Mapping New Boundaries in International Law – Ballroom C**

This panel will examine the meaning, impact, and relevance of international law to African states with a specific emphasis on the contribution of African states to the development of international law. African states are in part responsible for the current shift or flux in international law both as subjects and objects of international law. For over 15 years, African states have been reconfiguring their frameworks and rules and adopting new strategies to meet current challenges posed by—among other things—civil conflict, corruption, acute poverty, underdevelopment, and the HIV/AIDS pandemic, and simultaneously taking action with others to meet these challenges. The panel is sponsored by the Africa Interest Group.

**Chair:** JEREMY LEVITT, DePaul University College of Law

**Panelists:** EVELYN ANKUMAH, Executive Director, Africa Legal Aid (Ghana); TIYANJANA MALUWA, Pennsylvania State University, Dickinson School of Law; VINCENT NMEHIELLE, University of the Witwatersrand

**Discussant:** ADRIEN WING, University of Iowa College of Law

**Workshop: Does Human Rights Have a Theory of the State? Does It Need One? – Ballroom D**

Until the end of the Cold War, the human rights movement tended to wear an “anti-sovereignty” label. But for a variety of reasons—from globalization to the emphasis on ESC rights to the strong state role contemplated by treaties like CEDAW—the label no longer fits. Is there a coherent theory of the state to undergird the apparent divergence within the movement? Does it matter?

**Co-Convenors:** ALICE MILLER, Columbia University; PETER ROSENBLUM, Columbia University School of Law

12:30–2:30 pm

**American Branch International Law Association Executive Committee Meeting – Caucus Room**

2:15–3:45 pm

**PANELS AND LECTURE**

**Iraq, One Year Later – Ballroom A**

The panelists return to controversies that emerged during last year’s Annual Meeting relating to the Iraq war. One year later, how do five scholars map the concepts: Illegality v. Legitimacy; Legitimacy v. Mitigation; and Mitigation v. Necessity, all in the context of the war in Iraq?

**Chair:** MARY ELLEN O’CONNELL, Ohio State University, Moritz College of Law

**Panelists:** JAMES R. CRAWFORD, Cambridge University; RICHARD FALK, University of Santa Barbara; THOMAS M. FRANCK, New York University School of Law; ANNE-MARIE SLAUGHTER, Princeton University

**Protection or Control? Regulating the Movement of People in a Globalized World – Ballroom B**

Whether it be in connection with interstate efforts to control borders or combat trafficking, or the increasingly routine reception of asylum seekers in detention facilities, migration management is

increasingly treated as a matter of criminal law. This panel of experts will describe these trends and assess the suitability of the law enforcement approach to migration management.

**Moderator:** KATHLEEN NEWLAND, Migration Policy Institute

**Panelists:** MARYELLEN FULLERTON, Brooklyn Law School; JULIA HALL, Human Rights Watch; DAVID A. MARTIN, University of Virginia School of Law

**New Directions in International Environmental Law – Ballroom C**

The speakers on this panel were chosen by a peer-reviewed process. The panel provides an opportunity for a scholarly discussion of new, unpublished papers on international environmental law. Papers to be presented are: “Georgia Law: Rules and Standards in International Environmental Law” by Daniel Bodansky; “NYU Law: Treat with (pre)Caution: Lessons from the Use of Science in Decision-making under the WTO’s SPS Agreement” by Jacqueline Peel; and “ECJ, The Displacement of International Obligations: BITs and the Commodification of the Environment” by Susan Luebuscher.

**Chair:** KAL RAUSTIALA, University of California at Los Angeles Law School

**Panelists:** DANIEL BODANSKY, University of Georgia School of Law; SUSAN LEUBUSCHER, European Court of Justice; JACQUELINE PEEL, New York University School of Law

**MANLEY O. HUDSON MEDAL LECTURE**  
**Why Regime Change is (Almost Always) a Bad Idea – Ballroom D**

Under what circumstances, if any, is multilateral or unilateral regime change internationally lawful and under what conditions can it succeed?

**Lecturer:** W. MICHAEL REISMAN, Yale Law School



**Commentator:** RUDOLF DOLZER, Director,  
Institute of International Law, University of Bonn

**Moderator:** LUCY REED, Freshfields Bruckhaus  
Deringer LLP

3:30–4:25 pm

**Patrons Reception – Caucus Room**  
(By invitation)

3:45–4:30 pm

**Visit with Exhibitors – Foyer and Solarium**

The *European Journal of International Law* invites you to a drinks reception to meet its editor-in-chief, Philip Alston, at the Oxford University Press tables in the exhibit area.

4:30–5:30 pm

**Keynote Address – Ballrooms A, B and C**

**Speaker:** JUSTICE ANTONIN SCALIA,  
U.S. Supreme Court

**Introducer:** ANNE-MARIE SLAUGHTER,  
Princeton University

6:00–7:00 pm

**Plenary: Does International Law Matter? –**  
*Ballrooms A, B and C*

The panelists will explore where and how international law functions, both well and poorly, and discuss ways in which its implementation and compliance can be strengthened.

**Chair:** JAMES FEINERMAN, Georgetown  
University Law Center

**Panelists:** DAVID D. CARON, University of  
California School of Law, Berkeley; MICHAEL J.  
GLENNON, Fletcher School of Law and Diplo-  
macy, Tufts University; CATHERINE KESSEDIAN,  
Universite Pantheon-Assas Paris II, and Hauser  
Visiting Professor at New York University School  
of Law; KARL M. MEESEN, Friedrich-Schiller-  
Universitat-Jena (Germany)

*Cosponsored by Georgetown University Law Center*

7:00–8:00 pm

**Annual Reception** – *Ballroom D, Foyer and Solarium*  
*Cosponsored by Georgetown University Law Center*

8:00–11:00 pm

**Annual Dinner** – *Monet Ballroom, Second Floor*

**After-Dinner Conversation**

International Court of Justice  
Avena and Other Mexican Nationals (*Mexico v.*  
*United States of America*)

**Discussants:** CATHERINE BROWN, U.S. Department of State; DONALD FRANCIS DONOVAN, Debevoise & Plimpton

**Commentary:** JAMES R. CRAWFORD, Cambridge University

**Moderator:** JAMES H. CARTER, Sullivan & Cromwell, and ASIL President

Friday, April 2, 2004

# Saturday

**April 3, 2004**

7:45–8:45 am

**Interest Group Business Meetings**

International Economic Law – *Ballroom A*

International Environmental Law – *Ballroom B*

7:45–8:45 am

**Interest Group Chairs Meeting/Breakfast –**

*Caucus Room (By invitation)*

9:00–10:30 am

**PANELS**

**The Bush Administration Preemption**

**Doctrine and the Future of World Order –**

*Ballroom A*

The UN Charter authorizes the use of force under exceptional circumstances, while the preemption doctrine is based on the existence of a threat against national security. The tension between these two visions is critical for the future impact of the United Nations and its involvement in overseeing compliance with international law. Is a reform of the UN charter and the system required if the preemption doctrine is universally accepted? Panelists will discuss the role of the UN and other implications for the use of force in the light of the preemption doctrine.

**Chair:** JOHN NORTON MOORE, University of Virginia School of Law

**Panelists:** ANTONY ANGHIE, University of Utah College of Law; CHARLES HILL, Yale University and the Hoover Institution, Stanford University; WILLIAM HOWARD TAFT IV, The Legal Adviser, U.S. Department of State; ELISABETH ZOLLER, University of Paris-II

**Treaties in U.S. Law—New Debates on Old Ideas? – *Ballroom B***

In recent years scholars have debated vigorously the scope of the U.S. treaty power and the proper role of federalism in the exercise of that power. Some

Saturday, April 3, 2004

argue that recent treaties require the United States to delegate an unprecedented—and inappropriate—level of authority over matters previously reserved to the domestic sphere. Others challenge whether the U.S. can continue to conclude and implement treaties on matters that the federal government would not be able to regulate in the absence of a treaty. Still others debate the use of the term “self-executing” and the legal implications of labeling a treaty “non-self-executing.” The panel will examine the consequences of these legal debates for existing treaties and ongoing negotiations as well as the implications of these debates for international perceptions of U.S. compliance with its treaty obligations.

**Chair:** DUNCAN HOLLIS, Office of the Legal Adviser, U.S. Department of State

**Panelists:** CURTIS BRADLEY, University of Virginia School of Law, and Counselor on International Law, U.S. Department of State; LORI F. DAMROSCH, Columbia University School of Law; DAVID SLOSS, St. Louis University School of Law; EDWARD SWAINE, University of Pennsylvania

### **Human Rights and Humanitarian Law: Are There Some Individuals Bereft of All Legal Protection? – Ballroom C**

For many years it was widely assumed that international humanitarian law (IHL) and international human rights law (IHRL) were two entirely separate bodies of law and that IHL applied in times of war and IHRL in times of peace. The ICJ, in paragraph 25 of its Advisory Opinion on Nuclear Weapons, seemed to say that there was a greater degree of overlap between the two. The panel will discuss how this debate impacts on current controversy regarding the Guantanamo Bay detainees and other contemporary issues.

**Chair:** CHRISTOPHER GREENWOOD, QC, London School of Economics

**Panelists:** LOUISE DOSWALD-BECK, International Commission of Jurists; VERA GOWLLAND-DEBBAS, Graduate Institute of International Studies, Geneva; FRITS KALSHOVEN, University of Leyden; ANDRE SURENA, Washington, DC

10:45 am–12:15 pm

**WRAP-UP PANEL** – *Ballrooms A, B and C*

**Chair:** JAMES H. CARTER, Sullivan & Cromwell;  
and President, ASIL

**Panelists:** PHILIP ALSTON, New York University  
School of Law; JAN PAULSSON, Freshfields  
Bruckhaus Deringer LLP; ABBY COHEN SMUTNY,  
White & Case LLP; BRIGITTE STERN, University  
of Paris I



2:00–9:00 pm

**Workshop on the Teaching of International  
Law** – *Quorum Room*

Sponsored by the ASIL Teaching Initiative; the  
ILA Committee on the Teaching of International  
Law; and the Institute for International Law &  
Politics, Department of Government, Georgetown  
University. (*Advance registration was required.*)

**Chair:** JOHN KING GAMBLE, Pennsylvania State  
University, Behrend College

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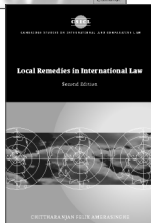
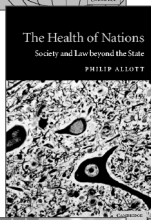
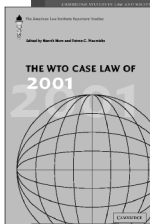
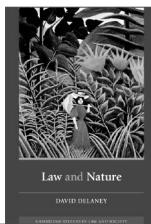
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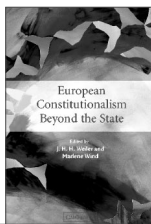
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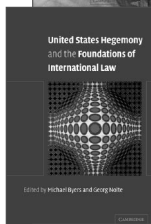
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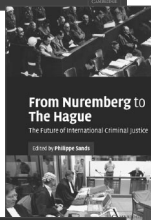


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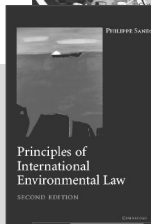
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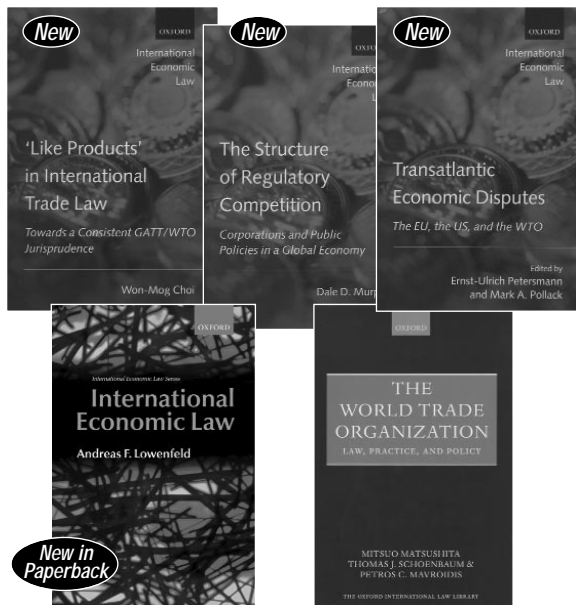
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