



ABILA NEWSLETTER



International Law Weekend 2019

International Law Weekend 2019, the signature event of the American Branch, will be held in New York City on **October 10-12, 2019**. The theme for ILW 2019 is *The Resilience of International Law*. ILW 2019 will begin on Thursday evening, October 10, with an Opening Plenary Panel and Reception sponsored by Debevoise & Plimpton at the New York City Bar Association. Moderated by ABILA President Leila Sadat, speakers include H.E. Judge Kimberly Prost, International Criminal Court; Miguel de Serpa Soares, U.N. Under-Secretary-General for Legal Affairs; and Christopher Ward SC, President of the International Law Association. The conference will continue on Friday and Saturday, October 11-12, at Fordham University School of Law. Ambassador Stephen Rapp, former U.S. Ambassador-at-Large for War Crimes Issues, will deliver the Friday Keynote Address, and the Permanent Mission of the Republic of Singapore will host the Friday evening reception.

Unlike prior years, the **98th Annual Members Meeting of the American Branch** will be held on **Saturday morning**. It will open with a provocative Keynote Address on the subject *How International Law Got Lost* by William Burke-White, Director of Perry World House at the University of Pennsylvania Law School and Chair of the International Law Students Association Board of Directors.

ILW 2019 features 35 panels on a wide variety of topics. As always, students attend free of charge, and the Conference is incredibly affordable due to the generosity of our sponsors. Multiple panels are designated for continuing legal education (CLE) credit. CLE credit is offered to all ILW attendees at no additional cost through the sponsorship of White & Case LLP.

For more information and to register, visit www.ila-americanbranch.org/ilw. Current ABILA members receive at least 50% discount with ILW registration.

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Letter from the President

As this *Newsletter* goes to press, it is hard not to be aware of stresses in the international legal system. U.S. President Donald Trump has made “America first,” the cornerstone of his international relations policy; authoritarianism is on the rise; core international agreements such as the Paris Climate Change Accord and the Iran nuclear deal are under threat; the Security Council’s permanent members are often at odds; and important international institutions like the World Trade Organization, the European Union, and the International Criminal Court have been spurned by some of their members or other important international constituencies.

If the 1990s were “the decade of international law,” as the United Nations General Assembly declared at the time, the last few years have felt like “the decade of the workaround,” as international institutions and international lawyers have tried to make the system function in spite of, rather than alongside, individuals and governments seemingly intent on tearing it down. For this reason, the theme of this year’s annual meeting of the Branch – *The Resilience of International Law* – seems particularly apt. The word “resilience” evokes an ability to recover quickly from difficulties; or the “ability of a substance or object to spring back into shape.” Can international law weather the storm? The Organizing Committee placed a period – rather than a question mark – after the title, suggesting that they believe it can. A report from the Chicago Council on Global Affairs indicates – perhaps surprisingly – that most Americans hope that they are right.

In its latest survey report, *What Americans Think about America First*, the Council found a majority of Americans continue to endorse sustaining U.S. engagement abroad, including maintaining alliances, supporting trade, and participating in international agreements. This suggests that current U.S. national policy may be at odds with U.S. beliefs about the value of international institutions and international law. The program of this year’s annual meeting – painstakingly assembled by an extraordinarily hard-working ILW Organizing Committee – reinforces this perspective. It evinces faith and hope in the future, yet, at the same time, a willingness to adapt international legal frameworks to serve a changing world. Please join us in New York for one of the world’s premier gatherings of international lawyers, scholars, and practitioners to discuss, debate, and ponder the enduring resilience of international law.

Yours sincerely,
Leila Nadya Sadat
Washington University School of Law



Save the Date for the 79th Biennial Conference Kyoto 2020

On August 23-27, 2020, the International Law Association will hold its 79th biennial conference entitled *ILA 2020: Bridging for the Future* in Kyoto, Japan. Modern international law was first introduced in Japan in the middle of the 19th century. Since then, Japan has made great contributions to the international legal community. The Japan Branch of the International Law Association, which was founded in 1920, invites ABILA members to Kyoto on its centenary anniversary.

The deadline for the call for papers is November 2, 2019. Registration for the Kyoto meeting opens on December 1, 2019. For more information, including additional deadlines and details about hotel reservations, visit www.ila2020kyoto.org.

International Law Weekend Midwest 2019

The world has reached a nadir for human suffering. Social media is spreading incitement like wildfire. The U.N. Security Council is paralyzed by the veto. And the International Criminal Court is under attack by friends and foes alike.

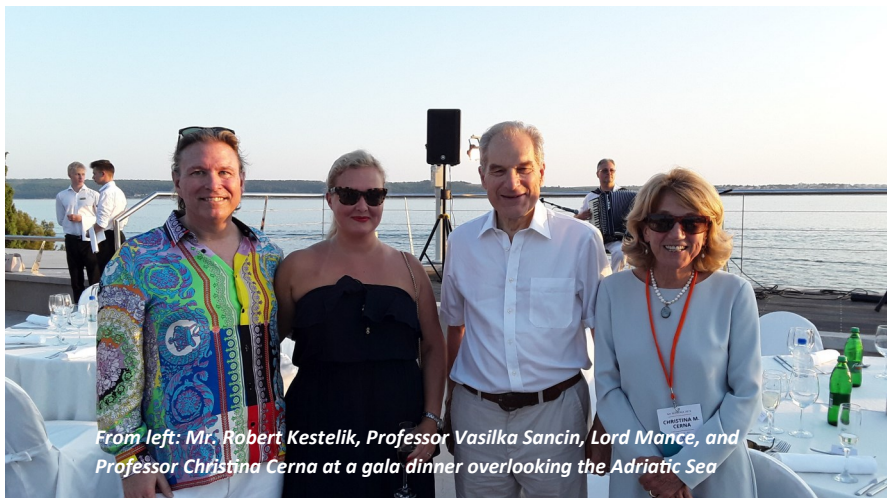
How should international law and justice respond? That is the question at the

heart of ABILA's **International Law Weekend—Midwest 2019** conference on September 20, 2019 at Case Western Reserve University School of Law.

The one-day conference features two dozen of the world's foremost experts on atrocity law and policy. The keynote speaker is Professor Sean Murphy, President of the American Society of International Law and a member of the U.N. International Law Commission, where he serves as the Special Rapporteur for Crimes Against Humanity. Panelists include ABILA President Leila Sadat, ABILA Vice President Michael Scharf, and ABILA Board Members Ved Nanda, Jennifer Trahan, and Milena Sterio. For more information, visit <https://law.case.edu/Lectures-Events/EventId/421/e/atrocity-prevention-the-role-of-international-law-and-justice-20-sep-2019>.



ILA Slovene Branch Regional Conference



From left: Mr. Robert Kestelik, Professor Vasilka Sancin, Lord Mance, and Professor Christina Cerna at a gala dinner overlooking the Adriatic Sea

In June 2019, the ILA Slovene Branch hosted its first ILA conference. The regional meeting featured presentations and discussions on the theme of *Migration/International Legal Regulation*. Topics ranged from climate migration and statelessness to the new global compacts on migration and refugees. Among the speakers were ABILA Vice President Christina Cerna, who presented on *Do Migrants Have Rights?*, and ABILA Board Member James Nafziger who presented on *Artificial Barriers to Migration: On the Border of International Law, Too?* The papers presented at the conference will be published in a book.

Participate in Regional Events

Regional events are an important and productive way to highlight the international law programs and activities at law schools and other institutions. They stimulate student interest in the field of international law, provide opportunities to engage on a regional basis with colleagues at other institutions, foreign affairs councils and specialists, and the international law sections of local and state bar associations.

ABILA invites members to submit proposals to host events at their institutions and/or publicize international law-related activities on the ABILA website.



Updates on the U.N. International Law Commission Work on a Global Treaty on Crimes Against Humanity

Thanks to the work of the *Crimes Against Humanity Initiative* at Washington University School of Law, a new global treaty on the prevention and punishment of crimes against humanity is gaining momentum. In summer 2017, the International Law Commission (ILC) completed Draft Articles for a global convention for crimes against humanity and requested comments from governments, international organizations, and others.

In fall 2018, the Commission received a large number of comments on the Draft Articles, with 39 States, seven international organizations, and approximately 700 NGOs and individuals submitting observations. Comments were generally positive, noting the significance of the proposed treaty and satisfaction that it would not conflict with the Rome Statute of the International Criminal Court.

The ILC began a second reading of the Draft Articles in May 2019 with a review of Special Rapporteur Sean Murphy's Fourth Report. Following a week of comments from members of the Commission, the ILC voted unanimously to send the Draft Articles to the Drafting Committee. The Commission adopted a complete set of Draft Articles and Commentary at the end of summer 2019, which will be discussed by the U.N. Sixth Committee on October 28-30, 2019 at the United Nations in New York.

It is now incumbent upon States to turn the Commission's work into a new treaty. To this end, the *Crimes Against Humanity Initiative* is organizing a side event on October 29, 2019 in New York City to discuss the ILC Draft Articles on crimes against humanity, generate enthusiasm for the project, and answer questions that could be raised by States or members of civil society. The Federal Republic of Germany will sponsor the meeting, in addition to other like-minded States.

International Law Weekend 2019 will feature a panel entitled *Forging a Convention for Crimes Against Humanity* on Friday, October 11 at 9 a.m. at Fordham Law School. Moderated by ABILA President Leila Sadat, speakers include John Bellinger, former U.S. Department of State Legal Adviser; Sean Murphy, Special Rapporteur for Crimes Against Humanity, International Law Commission; Michelle Reyes, Regional Coordinator for the Americas, the Coalition for the International Criminal Court; and Patrícia Galvão Teles, Member of the International Law Commission and Senior Consultant for the Ministry of Foreign Affairs of Portugal.



Photo credit: Jennifer Kilmer

2019 Hague Convention on the Recognition and Enforcement of Judgments in Civil or Commercial Matters

Four ABILA members – Professors Ronald Brand, Cristina Mariottini, David Stewart, and Louise Ellen Teitz – took part in the 22nd Diplomatic Session of the Hague Conference on Private International Law. The Diplomatic Session was held in The Hague from June 18 through July 2, 2019, and culminated in the signing of the Final Act of the Session which set out the **2019 Hague Convention on the Recognition and Enforcement of Judgments in Civil or Commercial Matters**. The text of the Convention is available at <https://www.hcch.net/en/instruments/conventions/full-text/?cid=137>. The Convention is the culmination of work which began in 1992, when the United States recommended that the Hague Conference consider a global convention on jurisdiction and judgments. The process also resulted in the conclusion of the Hague Convention on Choice of Court Agreements in 2005.

The 2019 Hague Convention provides rules for the circulation of judgments among its Contracting States. Article 4 provides the fundamental rule of the Convention: “A judgment given by a court of a Contracting State (State of origin) shall be recognised and enforced in another Contracting State (requested State) in accordance with the provisions of this Chapter.” Article 5 then sets out the conditions for a judgment to circulate under the Convention, providing thirteen bases of indirect jurisdiction, each of which may satisfy the gateway condition for such circulation. The list includes bases of jurisdiction commonly recognized among national legal systems, stated in a manner that takes into account nuances in jurisdictional regimes, including U.S. constitutional due process requirements. A judgment which satisfies the Article 5(1) test is entitled to recognition, but may be challenged on a limited set of bases found in Article 7(1), including the traditional grounds of lack of proper notice, fraud, and incompatibility with the public policy of the requested State.

Much of the Diplomatic Session focused on questions of Convention scope, with careful attention given to the ultimate exclusion from scope of such matters as intellectual property rights and antitrust.

Professors Brand and Teitz participated as members of the United States delegation. Professor Mariottini served as an Invited Expert to assist the Hague Secretariat, with special responsibility for assisting the Drafting Committee. Professor Stewart, a former Assistant Legal Adviser for Private International Law at the U.S. Department of State whose responsibilities had included Hague Conference matters, was an observer representing the International Law Association.



ABILA members meet in The Hague
From left: Professors Leila Sadat, David Stewart,
Ronald Brand, Brad Roth, and Cristina Mariottini

New Branch Members

We welcome the following new ABILA members who have joined our Branch since March 2019:

Ryan Abbott
Elizabeth Acorn
Letícia Andres
Morvarid Bagheri
Katherine Blake
Pamela Bookman
Grace M. Cheng
Lisa Cowan
Sarah Dadush
Ivan-Axel Doubrava
Sara French
Paul Figueroa
Madaline M. George
Nelly N. Gordpour
Josh Handelman
Kei Haneda
Eva Harte
Brittany de Hoyos
Onni Irish
Tawanna Johnson
Aibek Kanybekov
Zachary D. Kaufman
Christopher Kelley
James Leitner
John Linarelli
Emily Medosch
Gordien Ndizeye
Elizabeth Nelson
Jaya Ramji-Nogales
Alec Orudjev
Tina Kempin Reuter
Christine Sim
Tej Srimushnam
Lynn Ta
Alexa Thein
Ardyce Wong

Introducing New Member Imad Khan



This *Newsletter* features a new column: Introducing members who have joined the organization within the past year. It is our pleasure to introduce M. Imad Khan, Senior Associate with Hogan Lovells. Mr. Khan advises clients — multinational corporations, sovereigns, State-owned enterprises, and inter-governmental organizations — across diverse economic sectors, including energy, oil and gas, electricity, renewables, waste management, and mining in international arbitration and

litigation matters. He has represented foreign investors and host States in over a dozen investment disputes before the International Centre for the Settlement of Investment Disputes (ICSID) at the World Bank, as well as under the rules of the United Nations Commission on International Trade Law (UNCITRAL). He has also represented clients in commercial and construction disputes under the International Chamber of Commerce, the International Centre for Dispute Resolution (ICDR), and the Hong Kong International Arbitration Centre.

In addition to his practice, Mr. Khan serves as an adjunct faculty member at Washington University School of Law, teaching courses in investor-State arbitration and international commercial arbitration, and chairs the law school's *International Arbitration and Dispute Resolution Symposium* series. He maintains a deep understanding of his practice in international dispute resolution through publishing scholarly articles and participating in speaking engagements. He also serves as the inaugural chair of the Chartered Institute of Arbitrator's Young Members Group for North America, as a Global Advisory Board Member of the ICDR Young & International Group, and as a Young Arbitrator Member on the Board of the Institute for Transnational Arbitration.

Recruit New Members

Every ABILA member is encouraged to recruit new members to the American Branch. The health and success of our Branch depends on a steady infusion of new talent, enthusiasm, and energy.

Please take time to reach out to likely prospects, encouraging them to join ABILA, to attend ILW 2019, to participate in Branch Committees and Study Groups, and/or to sponsor local and regional events.

To help you in this effort, the ABILA membership brochure is available for download from the Branch website at www.ila-americanbranch.org under the Membership tab. You can also reach out to our Membership Officer Bethel Mandefro at membership@ila-americanbranch.org who would be happy to follow up with additional information about becoming an ABILA member.

Introducing the 2019 ILW Administrative Officer



ABILA is delighted to welcome Mr. Tej Srimushnam as the 2019 ILW Administrative Officer. Mr. Tej Srimushnam is an attorney at the United States Federal Trade Commission (FTC), where he has led investigations and trials involving antitrust and consumer protection law. He previously served as Counsel to the Director of the FTC Bureau of Consumer Protection, where he worked on data protection and privacy issues. Prior to entering government service, Mr. Srimushnam worked at two international law firms and served as a law clerk in the United States District Court for the U.S. Virgin Islands. Mr. Srimushnam is a graduate of the University of Pennsylvania Law School.



Mr. Srimushnam will be assisted by Ms. Nelly N. Gordpour, a second-year law student at the Benjamin N. Cardozo School of Law. Ms. Gordpour is a Staff Editor on the *Cardozo Journal of Conflict Resolution* and a legal intern with the Benjamin B. Ferencz Human Rights and Atrocity Prevention Clinic, where she is currently working on a strategic litigation project in Brazil. She also serves as the Vice President of the Cardozo Data Law Society, and the Secretary of the Cardozo Students for Human Rights. She also held a two-year fellowship with Humanity-In-Action. Prior to law school, she worked as a researcher within the U.N. human rights system and formerly worked with Human Rights Watch and the Open Society Foundations.

Student Ambassadors Program

In summer 2019, ABILA launched its Student Ambassadors program. The program provides a unique opportunity for ABILA members to nominate students to assist with the work of the American Branch, particularly with International Law Weekend in New York City, social media outreach, and other administrative efforts.

ABILA is pleased to welcome the following Student Ambassadors to date:

- ◆ Ms. Katherine Blake, JD '21, Santa Clara University School of Law
- ◆ Mr. Josh Handelman, JD '21, Washington University School of Law
- ◆ Mr. Kei Haneda, JD '20, St. John's University School of Law
- ◆ Ms. Brittany de Hoyos, JD '20, University of Pittsburgh School of Law

ABILA invites its members to nominate students by sending a copy of each student's CV, a writing sample, and any additional information in an email directed to ABILA Membership Officer Bethel Mandefro (membership@ila-americanbranch.org), with a copy to ABILA President Leila Sadat (sadat@wustl.edu). Only one student per law school may be nominated and designated as a Student Ambassador. Each Student Ambassador will be assigned to specific individuals such as the Organizing Committee Chairs, the President, or one of the Vice Presidents to provide various forms of assistance to the Branch. ABILA will provide Student Ambassadors from outside the New York City area up to \$500 to defray the costs of transportation to, and lodging during, ILW, depending on what support their institution is already providing. After ILW, Student Ambassadors may be asked to contribute to or to help edit the newsletter, support ABILA committees or the Director of Studies, or perform other tasks as assigned by the President.

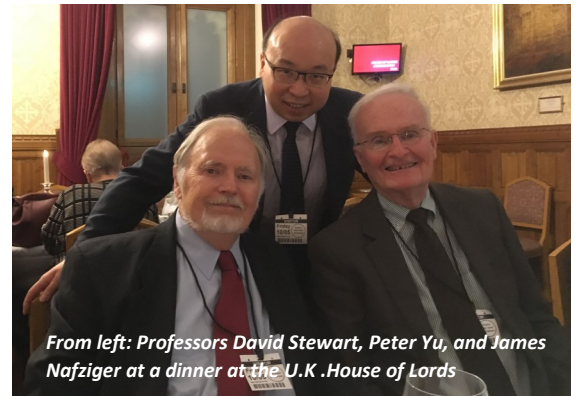
Fall 2019 ILA Executive Council Meeting

The fall 2019 meeting of the International Law Association (ILA) Executive Council will be held at ILA headquarters in London on November 23, 2019.



Report on Spring 2019 ILA Executive Council Meeting

The ILA Executive Council held its semi-annual meeting in London on May 11, 2019. The American Branch was represented by President Leila Sadat, Director of Studies Peter Yu, and Board Chair David Stewart. ABILA Honorary Vice President James Nafziger also attended as the ILA Vice Chair.



From left: Professors David Stewart, Peter Yu, and James Nafziger at a dinner at the U.K. House of Lords

Dr. Torsten Stein from the German Branch completed his tenure as the ILA Treasurer, and Mr. Rainer Hofmann (German Branch) was elected as his replacement. The Executive Council coopted Dr. Stein to continue serving on the Council for four years.

The Board honored retiring administrators Ms. Juliet Fussell and Ms. Natalie Pryer for their long service to the ILA, with gifts and "books of memories."

The Council welcomed Ms. Jennifer Tridgell as the Association's new Media Officer and Ms. Claire Martin as the ILA's new Chief Operating Officer. Ms. Martin previously served as the Secretary General with the Commonwealth Lawyers Association.

The Council also extended its welcome to the new Mauritius Branch.

Mr. Stein presented the financial report, noting that the ILA's general funds are slightly lower than they should be, in part resulting from the write-off of IT expenses, but mostly because a substantial number of Branches have not yet paid their 2018 dues. The Chair seconded his strong appeal to pay all dues in full, emphasizing that only fully-paid Branches are permitted to have members on ILA committees and study groups. The ILA is authorized to delete unpaid individuals from the membership roles and, eventually, to disqualify a Branch in its entirety.

The Director of Studies reported that the Committee on Submarine Cables had asked for an additional rapporteur, Ms. Danae Zaria, as had the Committee on Sea Level Rise, Professor Jane McAdam. Additional members were approved for several study groups.

A proposal for a new Committee on International Children's Rights by ABILA member Professor Warren Binford, Willamette Law, generated productive discussion. The Director of Studies will invite the proposers to form a short-term Study Group of some 10 expert members that would report either at next November's meeting of the Executive Council or at the Kyoto Biennial in 2020. It is expected that the Study Group will then be reconstituted as a Committee.

A brief discussion took place regarding the proposal of the Mauritius Branch for a new Committee on Islamic law. The topic was retained on the agenda for further discussion. The Slovene Branch is considering a proposal for a Committee on Migration under International Law.

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Report on ILA Executive Council Meeting

(cont'd)

The ILA Conference Report on the 2018 Sydney Biennial is now available both in print and online. The Executive Council thanked those who worked to prepare it.

Professor Marcel Brus will complete his tenure as Director of Studies in the fall. A panel chaired by Lord Mance recommended his successor, Professor Pierre Bodeau-Livinec of the French Branch, who took the position in June.

Discussions on ILA Regional Conferences highlighted two events. The first was convened in Portorož Riviera, Slovenia, on June 27-29, 2019 on migration and international legal regulation (<http://www.ilaslovenia2019.com>). The second will convene in Braga, Portugal, on September 19, 2019 at Minho An University, addressing the contribution of the case law of international courts and tribunals to the development of international law (<http://www.ilaportugal2019.com>).

The Japanese Branch reported on continuing preparations for the 2020 Biennial, which will take place in Kyoto from August 23-27, 2020. The program is available at www.ilajapan.org/doc/brochure.pdf, and registration will open December 1, 2019. The fee for ILA members will be 80000 JPY for ILA (approximately USD 730).

ABILA President Leila Sadat noted that the American Branch will hold its International Law Weekend in New York City on October 10-12, 2019.

Regarding Branch nominations to ILA Committees, the Council approved the nominations of ABILA members Sean Murphy (International Law and Sea Level Rise), Alison Renteln (Global Cultural Heritage Governance), Kent Bressie and Onni Irish (nominee of the Chair) (Submarine Cables and Pipelines under International Law), and Jack Beard, Mary Ellen O'Connell, Brad Roth, and Jennifer Trahan (Use of Force: Military Assistance on Request).

The Council approved five headquarters nominations from the United Arab Emirates, the Peoples' Republic of China, Malaysia, Thailand, and Vietnam.

Under the heading of ILA Policy on Incidents of Concern, there was a substantial discussion concerning the situation of Mr. Maurice Kamto, a Cameroonian lawyer and politician and former Member of the International Law Commission, who has been imprisoned for political activities in difficult circumstances. The management committee will discuss issues concerning ILA responses to such situations.

The next Executive Council meeting was moved from November 16 to November 23, 2019.

Meet the New ABILA Membership Officer



In January 2019, ABILA welcomed a new Membership Officer, Bethel Mandefro, who manages membership for the organization as well as provides administrative support for International Law Weekend, publications, and other activities of the Branch. Ms. Mandefro has served as the Program Coordinator and Office Manager at the Whitney R. Harris World Law Institute at Washington University School of Law since 2011. She manages the day-to-day operations of the Institute including coordinating and managing its programs, conferences, and speakers series, publication and communication efforts, and special projects. Ms. Mandefro holds a Masters in International Affairs from Washington University in St. Louis and a Bachelor of Science in International Business and Management and Organizational Behavior from the University of Missouri - St. Louis, with a minor in Spanish.

ILA Committees

ABILA membership provides the opportunity to represent the Branch on various ILA Working Committees. Currently 67 ABILA members serve on 20 ILA Committees, including:

Complementarity In
International Criminal Law

Global Health Law

Human Rights in Times of
Emergency

Implementation of the Rights of
Indigenous Peoples

Intellectual Property & Private
International Law

International Commercial
Arbitration

International Law and Sea Level
Rise

International Monetary Law

International Protection of
Consumers

International Securities
Regulation

Military Assistance on Request
(formerly Use of Force)

Nuclear Weapons, Non
Proliferation & Contemporary
International Law

Participation in Global Cultural
Heritage Governance

Procedure of International
Courts and Tribunals

Protection of Privacy in Private
International and Procedural
Law

Role of International Law in
Sustainable Natural Resource
Management for Development

Rule of Law and International
Investment Law

Space Law

Submarine Cables and Pipelines
Under International Law

Sustainable Development and
the Green Economy in
International Trade Law

News from ILA Committees and Study Groups



ILA Committee on Human Rights in Times of Emergency

Twenty-three members of the ILA Human Rights in Times of Emergency Committee, including ABILA Vice President Christina Cerna, participated in an inter-sessional meeting July 23-24, 2019 in Pisa, Italy, which turned out to be very successful. Thanks to the extraordinary organizational skills of Mr. Emanuele Sommario and the generosity of the Scuola Superiore Sant'Anna, which hosted the July meeting, this inter-sessional meeting generated wonderful excitement around the topic of Human Rights in States of Emergency. At the invitation of Judge Paulo Pinto de Albuquerque, the group scheduled a second inter-sessional meeting at the European Court in Strasbourg, France for the weekend of March 21-22, 2020 in order to prepare/approve the Committee's interim report for the Kyoto Biennial meeting.

ILA Committee on the Procedure of International Courts and Tribunals

The ILA Committee on the Procedure of International Courts and Tribunals has been focused not only on the procedural law of international courts and tribunals narrowly construed, but also on broader questions concerning institutional, architectural, and systemic reforms related to the conduct of procedure. The Committee's most recent meeting took place in January 2019 in Luxembourg. ABILA members Professors Jeffrey Dunoff and Chiara Giorgetti were active participants in that meeting. The next meeting will take place at the Max Planck Institute for Procedural Law in Luxembourg on September 6-7, 2019.

As a result of their collaboration on the Committee, the two American Branch members have organized a special symposium on ethical issues at international courts and tribunals. The symposium will include contributions by Professors Dunoff and Giorgetti, as well as other members of the Committee. The symposium is scheduled to be published in September 2019 by *AJIL Unbound*.

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ILA Committee on Intellectual Property and Private International Law

The ILA Committee on Intellectual Property and Private International Law is finalizing its draft Guidelines on Intellectual Property in Private International Law and accompanying comments. It intends to present the Guidelines with a proposal for an ILA Resolution at the ILA 79th Biennial Conference in Kyoto in 2020. On June 21 and 22, 2019, the Committee met at the Humboldt University Faculty of Law in Berlin, Germany for a productive discussion of its draft Guidelines and comments. Three of the four American Branch members of the Committee — Professors Rochelle C. Dreyfuss (NYU), Jane C. Ginsburg (Columbia), and Marketa Trimble (UNLV) — participated in the meeting. The work of the Committee is particularly important now that intellectual property matters have been excluded from the scope of the new Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters.



Members of the ILA Committee on Intellectual Property and Private International Law at the Berlin meeting

ILA Committee on Participation in Global Heritage Governance

The ILA Committee on Participation in Global Heritage Governance held an intersessional meeting on July 2-3 at Wolfson College at the University of Oxford. The Committee's mandate is to produce a report and quite likely a book that will identify, map, and analyze the positive and negative roles of communities in creating, developing, and implementing cultural heritage law. This meeting involved two full days of presentations and discussions focused on pertinent processes within regional and international organizations, ranging from the Arctic Council to the World Trade Organization. Professors Alison Dundes Renteln and James Nafziger of the American Branch served as speakers.



First from left, seated, Prof. Alison Dundes Renteln and third, Prof. James Nafziger

ILA Committee on the Protection of Privacy in Private International and Procedural Law

The ILA Committee on the Protection of Privacy in Private and International Law held its seventh meeting in Luxembourg on July 9, 2019. The Committee is chaired by Professor Burkhardt Hess, and ABILA member Cristina Mariotinni serves as co-rapporteur. ABILA members Professors Louise Ellen Teitz and David Stewart participated as Committee members. The Committee is drafting Guidelines to address the private international law and procedural aspects of civil claims (both contractual and non-contractual) arising out of the actual or threatened violation of privacy rights in cross-border cases.

At this meeting, the Committee undertook an intensive review of the current draft and accompanying explanatory report, with particular attention to the articles addressing jurisdiction, applicable law, and recognition and enforcement of foreign judgments. The main challenge, and the focus of most discussion, is to find language to bridge the differing approaches to this area in civil and common law systems (particularly with respect EU law and regulation). The Committee will present its final report at the 2020 Kyoto Biennial.

Prior to the Committee meeting, the Max-Planck Institute hosted a substantive conference on *The Protection of Privacy in Interconnected Digital Environments*, at which Professor Teitz presented a well-received paper on "Privacy in the Restatement of Conflict of Laws and in the ALI Principles." Her panel included Professor Simeon Simeonides, Willamette Law, and was chaired by Professor Linda Silberman, New York University School of Law.

ABILA Committees

The American Branch of the International Law Association and its Committees are pleased to co-sponsor events organized by ABILA members.

Please let us know via email at webmaster@ila-americanbranch.org if you have events you would like the Branch to co-sponsor or promote on the ABILA online calendar.

New Study Group on Threats to the International Legal Order

Earlier this year, the American Branch approved the creation of a new Study Group on Threats to the International Legal Order. The Study Group is chaired by Professor David L. Sloss, the John A. and Elizabeth H. Sutro Professor of Law at Santa Clara University, who has recruited 13 other leading scholars to participate.



This new Study Group will pursue three main goals:

1. Identify the key threats to the continued viability of the existing rules-based international order;
2. Evaluate the magnitude of those threats, with the aim of assessing which developments, if any, could potentially destroy the rules-based international order, and which ones are properly viewed as threats of lesser magnitude; and
3. Consider and assess a range of possible policy responses, focusing on threats of the greatest magnitude and on policy options for a new (post-Trump) U.S. president who is committed to preserving the rules-based international order.

The Study Group will adopt an interdisciplinary approach, drawing on insights from law, economics, political science, and international relations. The study group will hold its first meeting in October on the margins of International Law Weekend. A follow-up meeting has been scheduled in February 2020 at Santa Clara University.

Co-sponsored Events

The American Branch of the International Law Association was a Cooperating Entity at the **ABA Section of International Law Annual Conference** held on April 9-12, 2019 in Washington, D.C. This National Conference focused on *Access to Justice for Children and Families* and provided training and networking opportunities for child law professionals who advocate for children, parents, agencies, and kin in child welfare proceedings. The conference also included participation from judges, Court Improvement Program directors, court administrators, and attorneys who handle cases that intersect with child welfare, such as in immigration, education, housing and family law. It also provide a track on implementing the Family First Prevention Services Act, which brought sweeping changes in child welfare law, with the goal of keeping families together. The conference is the ABA Section of International Law's largest event of the year, with approximately a 1,000 attendees.



Update on Branch Committees

Since the 2018 Annual Meeting, the Branch added two committee co-chairs: Ms. Floriane Lavaud (Debevoise & Plimpton) to the **Committee on International Arbitration** and Ms. Dora Ziyaeva (Dentons) to the **Committee on International Investment Law**. The Branch also established a new **Study Group on Threats to the International Legal Order** chaired by Professor David Sloss (Santa Clara University).

The **International Human Rights Committee** has several current activities. Members of its Subcommittee on U.S. Compliance with International Human Rights Law continue to await the outcome of its submission to the Inter-American Commission on Human Rights relating to President Trump's "Muslim Ban" on immigration. The Subcommittee also is monitoring the appeal in *Ms. L v. ICE*, with the intention of filing an amicus brief with the Ninth Circuit regarding the Trump Administration's policy of separating children from their families at the southern border. Members of the Subcommittee are also submitting a stakeholder report to the U.N. Human Rights Council for the 2020 Universal Periodic Review of the United States. The Committee has also formed a 12-person Working Group on Consumer Protection and Human Rights, under the leadership of Dr. Alexandra Harrington and Mr. Tej Srimushnam, which is drafting a white paper. In collaboration with the International Humanitarian Law Committee, the Committee will hold a debate panel entitled *Foreign Fighters and their Families: How to Reconcile the Competing Demands of ICL, IHL, Human Rights and Refugee Law* at International Law Weekend 2019 on Saturday, October 12, at noon.

The American Branch is in the process of selecting a Co-Director of Studies to replace Chiara Giorgetti (Richmond), who stepped down at the 2018 annual meeting and was elected as one of the Branch's Vice Presidents. The **Branch Nomination Committee** will propose a slate of nominees for consideration at this year's members' Annual Meeting.

The Branch also nominated the following individuals to various ILA committees. Their nominations were approved during the May 2019 meeting of the ILA Executive Council in London:

- ◆ Professor Kent Bressie and Ms. Onni Irish (nominated by the Chair Ash Roach) to the ILA Committee on Submarine Cables and Pipelines Under International Law;
- ◆ Professor Sean Murphy to the ILA Committee on International Law and Sea Level Rise;
- ◆ Professor Alison Dundes Renteln to the ILA Committee on Participation in Global Cultural Heritage Governance; and
- ◆ Professors Jack Beard, Mary Ellen O'Connell, Jennifer Trahan, and Brad Roth to the ILA Committee on Use of Force: Military Assistance on Request.

News from Branch Members



Professor **Ronald Brand** of the University of Pittsburgh has received the 2019-2020 Sheth Distinguished Faculty Award for International Achievement. The award was created by Dr. and Mrs. Jagdish N. Sheth to honor a member of the University of Pittsburgh faculty who is committed to global endeavors. Professor Brand has served for 24 years as Director of the Center for International Legal Education at the University of Pittsburgh School of Law, where he directs the LL.M. and S.J.D. programs. Among other activities, the award acknowledges his work with more than 25 law schools in transition countries to develop the curriculum in international commercial law and arbitration.

Professor **Christina Cerna** was elected to the Board of Directors of Amnesty International USA (AIUSA). After attending a conference on the *U.S. Gun Violence Crisis: An Interdisciplinary & Human Rights Approach* at Washington University in St. Louis, and learning that Amnesty International had mobilized a campaign against U.S. gun violence, Professor Cerna was motivated to launch her candidacy for the Board of Directors of AIUSA so that she could continue to work against gun violence in an NGO-structured environment. Professor Cerna had been active in Amnesty International's work 45 years ago, but had to cease NGO activity while working for the Organization of American States. Now that she has retired, she is free to engage in such activities again.



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Visit the ABILA Website for up-to-date information on events and activities.

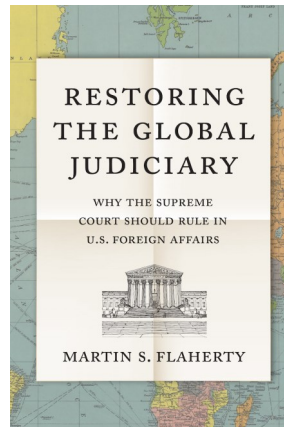
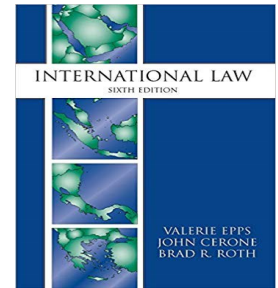
The American Branch of the International Law Association and its committees are pleased to co-sponsor events organized by ABILA Members.

Please let us know if you have events you would like the Branch to co-sponsor or advertise on the ABILA online calendar.

www.ila-americanbranch.org

News from Branch Members *(cont'd)*

Professors John Cerone, Valerie Epps, and Brad Roth have just published *International Law* (6th edition 2019) (Carolina Academic Press), which comes with over 200 PowerPoint slides free for professors adopting the book for a course. The book's coverage of all major topics of international law is comprehensive. It combines excerpts from leading cases, explanatory text, and problems to test students' understanding of the materials.



Professor Martin Flaherty recently released a book entitled *Restoring the Global Judiciary: Why the Supreme Court Should Rule in U.S. Foreign Affairs*. Many legal scholars argue that the judicial branch of the American government should have little or no say in the executive branch's conduct of foreign affairs. However, Professor Flaherty argues in his new book that not only should the judiciary play a larger role in foreign affairs, but that it must. Divided in four parts, the book explores the origins of the U.S. Constitution and the initial separation of governmental powers and traces the United States' waning commitment to judicial involvement in

global affairs. The book also examines the Court's current role through the lens of international relations theory, which suggests that foreign affairs no longer take place as one nation interacting with another nation, but rather as individual branches of governments interacting independently with the comparable branches of other governments, and explores how the judiciary can move forward.

ABILA President **Leila Sadat** and Board members **Jennifer Trahan** and **Milena Sterio** attended the third annual ICC Scholars Forum held on June 21-22, 2019 at Leiden University's Grotius Centre for International Legal Studies. Launched in summer 2017 by the Whitney R. Harris World Law Institute at Washington University School of Law, the ICC Scholars Forum provides academics who work on and teach about the International Criminal Court with the opportunity to discuss their teaching and research.



In May 2019, Professor **Leila Sadat** spoke on *Current Challenges to International Justice: Lean in or Leave?* at the Oxford Blavatnik School of Government, University of Oxford, United Kingdom. The lecture highlighted recent trends that pose challenges to advancing international justice, such as States campaigning to "leave" the International Criminal Court (ICC), and why institutions such as the ICC remain important in maintaining peace and security and achieving justice for victims. In June 2019, she was elected as the Chair of Washington University's Faculty Senate Council, which represents the approximately 4,000 faculty at the University.

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News from Branch Members *(cont'd)*

On April 29, 2019, Professor **Jennifer Trahan** and Mr. **Houston Putnam Lowry** attended the ABA Day at the U.N. on behalf of ABILA. The meetings were on a non-attribution basis so that discussions could be candid. They met with Under-Secretary-General for Legal Affairs and U.N. Legal Counsel Mr. Miguel de Serpa Soares, Mr. Stephen Mathias, Assistant Secretary-General for Legal Affairs and Mr. Jay Pozenel, Director of the General Legal Division. The discussion was lively.

Under-Secretary-General for Political Affairs, Ms. Rosemary DiCarlo, spoke on *Prevention of Emerging Conflicts and Resolving Existing Conflicts Around the World*. Ms. Jane Connors, Assistant Secretary-General, Victims' Rights Advocate for Victims of Sexual

Exploitation and Abuse, spoke as well. U.N. Deputy Secretary-General Amina Mohammed (the most senior career U.N. staff member) spoke about Developments Relating to U.N. 2030 Sustainable Development Agenda over lunch. After lunch, the delegation met with Ambassador Jonathan Cohen, U.S. Acting Permanent Representative to the U.N. for the United States, and Mr. Mark Simonoff, Legal Adviser to the United States Mission to the United Nations. Ambassador Cherith Norman Chalet, U.S. Representative for U.N. Management and Reform and Alternate Representative to the U.N. General Assembly, briefed the delegation on United Nations reform proposals. Mr. Lowry and Professor Trahan took the above photo before the so-called Knotted Gun sculpture on the U.N. grounds, which was inspired by the shooting of John Lennon. It was given by the government of Luxemburg to the United Nations in 1988.

Mr. Lowry is pleased to announce his firm name has become Polivy, Lowry & Clayton, LLC as of January 1, 2019.

ABILA Vice President **Michael Scharf** and Board Member **Milena Sterio** discussed their new book, *The Legacy of Ad Hoc Tribunals in International Criminal Law* (Cambridge University Press, 2019), at the International Criminal Court, Asser Institute, and the Grotius Centre at Leiden University in The Hague in June 2019.

Professor **David Stewart** (Chair of the Branch Board of Directors) taught a short course in June on "international criminal law" for the Law Faculty at the University of Heidelberg and later attended (as an observer on behalf of the ILA) the negotiations of the newly adopted Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters. In June, he was named "Faculty of the Year" at Georgetown University Law Center. Professor Stewart's chapter on "Immunity and Terrorism" has been published in *The Cambridge Handbook of Immunities and International Law* (Ruys and Angelet, eds., 2019). His chapter on "International Immunities in U.S. Law" has been published in *The Oxford Handbook of Comparative Foreign Relations Law* (Curt Bradley, ed., 2019). His article on "Incorporating International Human Rights into U.S. Law: Well-known Limitations and New Initiatives Taken at State, City and Local Levels" has just been published at 28 *Human Rights Law Journal* 1 (2018).



Mr. Houston Putnam Lowry and Prof. Jennifer Trahan in front of the Knotted Gun sculpture



Dean Michael Scharf Cour Pénale International

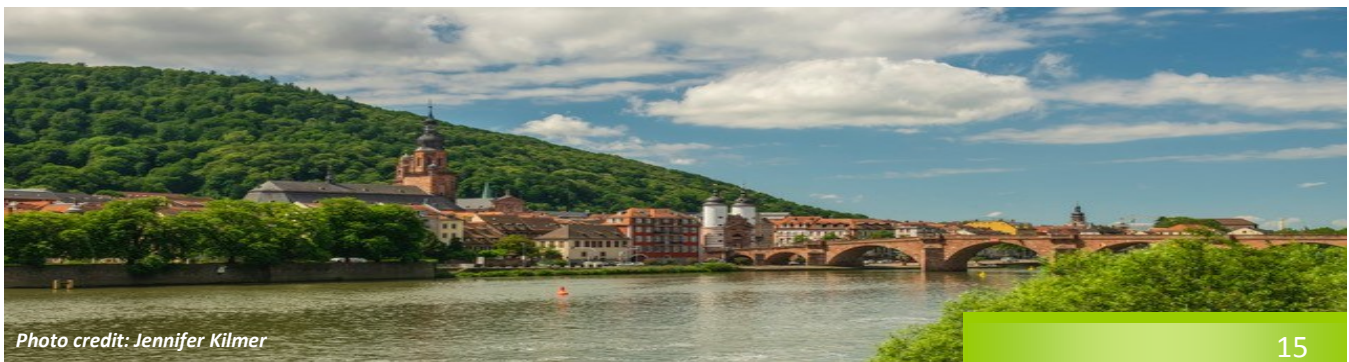


Photo credit: Jennifer Kilmer

Pay Your Dues

The Branch's membership year began in January. If you have not yet paid your 2019 membership dues, please do so now.

Making a payment is easy. Visit www.ila-americanbranch.org and click on the Membership tab or contact our Membership Officer Bethel Mandefro at membership@ila-americanbranch.org.

Calendar of Upcoming Events

- ♦ **September 19-20, 2019: ILA Regional Conference, *The Contribution of the Case Law of International Courts and Tribunals to the Development of International Law*, University of Minho Law School, Braga, Portugal**
- ♦ **September 20, 2019: International Law Weekend—Midwest, *Atrocity Prevention: The Role of International Law and Justice*, Case Western Reserve University, Cleveland, OH**
- ♦ **October 3-4, 2019: BIICL London Conference on International Law, *Engaging with International Law*, Barbican Centre, London, U.K.**
- ♦ **October 4, 2019: The Role of the ICTY in Understanding the War and Genocide in Bosnia-Herzegovina, Washington University School of Law, St. Louis, MO**
- ♦ **October 10-12, 2019: ABILA International Law Weekend: *The Resilience of International Law*, New York City**
- ♦ **October 17-19, 2019: ASCL Annual Meeting, University of Missouri School of Law, Columbia, MO**
- ♦ **November 7-9, 2019: ASIL Mid-Year Meeting, Brooklyn Law School, New York City**
- ♦ **November 23, 2019: ILA Executive Council Meeting, London, U.K.**
- ♦ **April 1-4, 2020: American Society of International Law Annual Meeting: *The Promise of International Law*, Washington, D.C.**
- ♦ **May 2020 (TBD): ILA Executive Council Meeting, London, U.K.**
- ♦ **August 23-27, 2020: ILA 79th Biennial Conference and ILA Executive Council Meeting, Kyoto, Japan**
- ♦ **October 23-24, 2020: International Law Weekend 2020, New York City**

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