

The American Branch of the International Law Association

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I. Origins

[1] In 1872, the famous arbitral award resolving the *Alabama Claims* in favor of the United States rekindled efforts to develop international law and arbitration. The next year, several Americans, including the renowned codifier David Dudley Field, helped found the Association for the Reform and Codification of the Law of Nations, which in 1895 was renamed the International Law Association (ILA). He proposed the Association in the same year that launched both the International Code Committee (ICC), formed in the United States, and the Institut de Droit International. Field was a prime mover in creating all three organizations, seeing them as important contributors to the 19th-century international law codification mission. He served as the Association's Honorary President (1873-1874) and President (1874-1876 and 1878-1879), as well as President of the ICC, which promoted international codification and arbitration. Although the International Code Committee existed for only about a decade, it did serve as precedent for, even as a precursor of, the ILA's American Branch.

[2] Before the American Branch of the International Law Association (ABILA) was formally established, US international lawyers participated actively in the work of the Association. They served as officers and committee members, and hosted ILA conferences in 1899 and 1907, coinciding with the two seminal Hague conferences on the laws of war. As far back as 1910, prominent US lawyers discussed forming an American Branch, but World War I interrupted plans. US attendees at the ILA's 1921 conference in The Hague undertook to establish a Branch, and held a planning session in New York on 5 November 1921.

[3] The American Branch, one of the oldest ILA branches, convened its first annual meeting on 27 January 1922. There, it adopted its constitution and elected regular officers. Hollis R. Bailey, a Harvard-trained Boston lawyer who promoted codification efforts – he chaired the Board of Commissioners for the Promotion of Uniformity of Legislation in the United States – became the ABILA's first President. The first Honorary President was US Supreme Court Chief Justice and former US President William Howard Taft, an advocate for international law and arbitration. Speakers at the inaugural meeting of the American Branch noted that it could contribute to the international rule of law by building 'foundations for a profitable and peaceful international trade and commerce', furthering the 'reasoned development of international law', and 'explain[ing] the precise grounds on which the United States essays to interpret international law.' In its early years, the Branch focused especially on international maritime rules and other commercial topics.

II. Major Developments

Conferences

[4] The United States has served as the venue for the ILA conference on six occasions. Prior to the formation of the American Branch, Buffalo, New York welcomed the 18th ILA Conference in 1899, and Portland, Maine the 24th Conference in 1907, both at the invitation of the American Bar Association. ABILA hosted the 36th (1930), 48th (1958), and 55th (1972) Conferences in New York City, and the 76th (2014) Conference in Washington, DC. The 76th Conference, which was jointly sponsored by ABILA and the American Society of International Law, was reportedly the largest gathering of international lawyers ever held. ABILA also initiated plans for, and helped organize, a regional ILA conference in Barbados (2008) that eventually led to the establishment of the ILA's Caribbean Branch.

[5] The American Branch has always featured addresses by prominent international lawyers at its annual meetings, along with occasional panels. In 1974, ABILA organized the first International Law Weekend (ILW), an ambitious conference held in New York each fall in conjunction with the Branch's annual meeting. Columbia Law School Professor John Hazard, then Branch President, and Professor Alona Evans of Wellesley College were key figures in establishing ILW. The first Weekend included four panels: on legal protections against inflation, regulation of multinational enterprises, the future of the law of the sea, and control of international terrorism. Interest in the conference prompted its growth in the 1990s: from seven panels in 1991 to 32 in 1996. In 1991, ILW also expanded from two days to three, beginning with a Thursday evening keynote panel. Since 2002, a permanent mission to the United Nations – including those of Belgium, Bulgaria, Estonia, the European Union, Finland, New Zealand, Pakistan, Peru, Singapore, South Africa, Switzerland, the United Kingdom, and Venezuela – has hosted a gala Friday evening reception. By 2009, ILW had outgrown its original venue at the New York City Bar Association (NYCBA) and moved to Fordham University School of Law, although the Thursday keynote panel and an opening reception are still held at NYCBA. Panels cover a broad array of public and private international law topics, and prominent speakers – often the Legal Adviser to the US State Department or the President of the American Society of International Law – give addresses at each ILW. ILW has become one of the premier gatherings of international lawyers in the United States, now attracting 1,000 to 1,500 registrants each year.

[6] In the 21st century, the American Branch also instituted regional International Law Weekends, hosted by law schools across the United States. ILW West began in 2001, ILW Midwest in 2010, and ILW South in 2017. As of autumn 2021, 18 well-attended regional ILWs had been held at different law schools in California, Colorado, Georgia, Missouri, Ohio, Oregon, Texas, and Utah. In addition, the Branch has frequently organized or cosponsored speeches or panels not associated with conferences.

[7] The *Proceedings of the American Branch of the International Law Association* include keynote addresses from ILWs and regional ILWs, as well as summaries of the programs and ABILA committee reports. Another Branch journal, *International Practitioner's Notebook (IPN)*, which between 1977 and 1995 featured reports about legal developments of particular interest to practitioners, has since 1996 published ILW papers. *IPN* is now printed annually as an issue of the *ILSA Journal of International and Comparative Law*. Various other law journals have published regional ILW papers.

Committees

[8] American Branch committees began their own work shortly after the Branch was established. Their work remains central to ABILA's mission, with 18 committees active as of 2021. Committee reports have been published in the Branch's *Proceedings* from the 1920s.

[9] The American Branch's committee reports, occasionally accompanied by dissenting views, have significantly contributed to the work of the ILA as a whole. ABILA's full Executive Committee (now renamed the Board of Directors) initially oversaw committee work, which traditionally dealt mostly with topics being studied by corresponding ILA committees. The Executive Committee delegated supervisory responsibilities to a Committee on Committees in the 1980s and then, beginning in 1989, to a Director of Studies. Branch committees today may adopt policy positions in accordance with Branch guidelines, pursuant to review by the Director of Studies.

[10] Recent examples of extensive Branch committee studies include the International Intellectual Property Committee's 2010 'White Paper on Major International Intellectual Property Developments'; the Law of the Sea Committee's 2011 book, *Definitions for the Law of the Sea*; and the Study Group on Threats to the International Legal Order's forthcoming book, *Challenges to the International Legal Order*. In recent decades, Branch committee work has also taken other forms, with some committees preparing *amicus curiae* briefs, letters expressing views about US legislation or international practice, congressional testimony, question-and-answer dialogues, and podcasts. The work product of ABILA committees today is published on the Branch website (<https://www.ila-americanbranch.org>) and summarized in the *ABILA Newsletter*, as well as being reproduced in the Branch *Proceedings*. ABILA committees also frequently organize ILW and regional ILW panels.

Communications

[11] ABILA's *Newsletter*, inaugurated in 1974 and now published two or three times a year, is sent to members, distributed at conferences, and posted on the American Branch website. The *Newsletter* features reports on recent developments at ILA Executive Council meetings and ABILA Board meetings, updates concerning ILA and Branch committees, synopses of ILWs and other Branch events, news of members, the President's report, and occasional book reviews and other essays. ABILA's substantive work is distributed widely through the Branch *Proceedings*, *International Practitioner's Notebook/ILSA Journal of International and Comparative Law*, and on occasion other law journals; these publications are available via HeinOnline or other internet databases.

[12] In recent years, the American Branch has also relied on email announcements, videos, and its website to communicate with its members and the broader international law community, presenting information about the ILA and Branch conferences, committees, and governance.

Collaborations

[13] The American Branch has contributed to the ILA in many ways, in addition to its work on committees and conferences. An American Branch member has for many years served as the ILA's liaison at the United Nations, filing detailed reports. ABILA has also made financial contributions to ILA Headquarters in addition to its required membership dues. For example, during World War II, the Branch donated approximately a quarter of its funds to support ILA operations. Other contributions have been made for specific initiatives, including scholarships for students attending biennial conferences and support for the Japan Branch's 2020 ILA conference during the Covid pandemic. ABILA has also from time to time cooperated with the Canadian Branch in organizing panels at International Law Weekends.

[14] The American Branch has, in addition, collaborated with other US organizations on various projects. The American Society of International Law (ASIL), along with the American Foreign Law Association (AFLA) and the Association of the Bar of the City of New York (now the New York City Bar Association – NYCBA), helped plan early International Law Weekends, and ASIL was an essential partner when the American Branch hosted the 76th ILA Conference in 2014. The American Branch has also engaged in scholarly endeavors with ASIL. In the early 1990s, the organizations jointly studied the role of the Legal Adviser to the US Department of State. This initiative, chaired by Columbia Law School Professor Oscar Schachter, a leading UN official and former ASIL President, resulted in a report published both in the *American Journal of International Law* and in the Branch *Proceedings*. During 2009 and 2010, ABILA leaders David Stewart and Louise Ellen Teitz directed a joint project with ASIL that studied the implementation of transparency norms in international investment and commercial arbitration. As ILW grew, the International Law Students Association (ILSA) assisted with on-site conference administration, coordinated with the American Branch in organizing career panels, and, for a decade, jointly sponsored ILW. The Branch has also organized scores of other workshops, panels, and speaker events with various universities and organizations, including AFLA and NYCBA.

III. Governance and Leadership

[15] Over the past century, the American Branch has historically been one of the ILA's largest branches, with its membership fluctuating from just over 100 in ABILA's early years, to a high, on some occasions, of well over 600. A Patron (life member) program was initiated in 2009, and as of 2021, 21 individuals had become Patrons: Charles N. Brower, Lee C. Buchheit, David Caron (deceased), Christina M. Cerna, Edward Gordon, Anthony Lee Larson, Cynthia C. Lichtenstein, Houston Putnam Lowry, Philip M. Moremen, John F. Murphy (deceased), James A.R. Nafziger, Ved P. Nanda, Andre Newburg (deceased), John E. Noyes, Aníbal M. Sabater, Leila Nadya Sadat, Mortimer N. Sellers, Charles D. Siegal (deceased), David P. Stewart, Beth van Schack, and Ruth G. Wedgwood.

[16] The American Branch functioned as an unincorporated association for 90 years before reorganizing as a not-for-profit Delaware corporation in 2012, taking advantage of Delaware's well-developed corporation code. Today the Branch is governed by its Board of Directors, and its officers include a President, President-Elect, Secretary, Treasurer, and five Vice-Presidents. The immediate past President serves as Chair of the Board, and there are 14 Honorary Vice-Presidents. A Director of Studies oversees Branch committee work.

[17] Thirty-five distinguished international lawyers have served as Presidents of the American Branch: Hollis R. Bailey (1922-1923); Charles B. Elliott (1923-1924); Harrington Putnam (1924-1925); Robert E.L. Saner (1925-1926); Arthur K. Kuhn (1926-1927); Edwin R. Keedy (1927-1928); Amos J. Peaslee (1928-1929); Edmund A. Whitman (1929-1930); John W. Davis (1930-1931); Oscar R. Houston (1931-1932); Howard Thayer Kingsbury (1932-1933); Paul H. Lacques (1933-1934); Fred H. Aldrich (1934-1935); Joseph P. Chamberlain (1935-1936); William J. Conlen (1936-1937); Phanor J. Eder (1937-1938); Farnham P. Griffiths (1938-1939); Arthur K. Kuhn again (1939-1940); Lewis M. Isaacs (1940-1944); William S. Culbertson (1944-1948); J.W. Ryan (1948-1951); Clyde Eagleton (1951-1958); Oscar R. Houston (1958-1959); Pieter J. Kooiman (1959-1963); Cecil J. Olmstead (1963-1972); John N. Hazard (1972-1979); Robert B. von Mehren (1979-1986); Cynthia C. Lichtenstein (1986-1992); Edward Gordon (1992-1994); Alfred P. Rubin (1994-2000); James A.R. Nafziger (2000-2004); Charles D. Siegal (2004-2008); John E. Noyes (2008-2010); Ruth Wedgwood (2010-2014); David P. Stewart (2014-2018); and Leila Nadya Sadat (2018-present). In 2020, Michael P. Scharf became President-Elect.

IV. Snapshots

[18] Over the past century, the American Branch has contributed significantly to the development of international law and to the work of the ILA. The following snapshots, from 1925-1926, 1970-1971, and 2018-2019, illustrate how the Branch has adapted to changes in international law and practice.

1925-1926

[19] American Branch membership swelled from 102 in 1922, when the Branch was established, to 659 in 1926. This growth was the result of a 1925 initiative to invite as new members those ‘seriously and earnestly interested in the work of the Association.’ New York City boasted the most members (163), and 40 members were from Canada, which did not then have its own ILA branch. The 1926 membership roster identified only three women. The annual meetings each featured three or four substantive addresses, including by Harvard Professor Manley O. Hudson in 1925 and by the renowned US international lawyer James Brown Scott in 1926. Arthur K. Kuhn, a key figure in organizing the Branch in 1921-1922, was elected President in January 1926. A professor at Columbia University, Kuhn also played major roles in the American Society of International Law, the Institut de Droit International, and the American Foreign Law Association. Two Americans – US Supreme Court Chief Justice William Howard Taft and J. Arthur Barratt, an admiralty law expert – served as ILA Executive Council Vice-Presidents, but only about a third of the 19 ILA committees included American Branch members. ABILA’s own committees undertook several studies related to ILA committee work. Although the Branch focused heavily on commercial and maritime matters, the work of the ILA Committee on a Permanent International Criminal Court, on which three ABILA members served, excited interest and concern. That Committee, concluding that creation of such a court was both ‘highly expedient’ and ‘practical’, prepared a draft Statute that was adopted, as amended after a lengthy debate, by the 34th ILA Conference in Vienna, in 1926.

1970-1971

[20] A snapshot of the American Branch as it approached its 50th anniversary reveals prominent international lawyers devoting their time and energy to the International Law Association and the Branch. Cecil J. Olmstead, a distinguished corporate executive who had worked in the US State Department, was Branch President. Judge Philip C. Jessup, who finished his tenure on the International Court of Justice in 1970, was the American Branch's Honorary President, an office previously held by US Supreme Court Chief Justices William Howard Taft and Charles Evan Hughes. Leading academics – Professor John Hazard of Columbia Law School and Harvard Professors Richard Baxter and Louis Sohn – served as ABILA's Vice-Presidents. American Branch members contributed significantly to ILA committees and ILA governance. As the decade began, Olmstead, Yale Professor Myres S. McDougal, and New York attorney Pieter J. Kooiman, a former Branch President, served on the ILA's Executive Council. Olmstead would later become President of the ILA (1972-1974), Chair of its Executive Council (1974-1988), and a Vice President (1988-1994); he would also be honored as the ILA's first Patron. Sohn chaired the ILA Committee on the Charter of the United Nations, and Professor Martin Domke of New York University the Committee on International Arbitration. Olmstead chaired the ILA Study Group on Legal Aspects of the Conservation of the Environment; a committee on the topic would be established shortly, to be headed by ABILA member Dean R. St. John Macdonald of the University of Toronto. Professor Willis Reese of Columbia was a Rapporteur of the Committee on Transnational Enterprises, and Baxter a Rapporteur of the Committee on Extraterritorial Application of Restrictive Trade Legislation. Some 30 other American Branch members served on various ILA committees during 1970-1971. ABILA's own committees produced significant work. The Committees on Deep Sea Mineral Resources, Human Rights, International Commercial Arbitration, International Monetary Law, Legal Problems of Asylum, and International Medical Law produced substantive reports in 1970. All but the last of those committees would publish additional important studies in the 1971-1972 Branch *Proceedings*, as would the Branch's Committees on the UN Charter and on Extraterritorial Application of Restrictive Trade Legislation. This issue of the *Proceedings* lists 632 Branch members; 22 were institutions and 25 were from outside the United States. Twenty-three women were members, several of whom would come to hold significant leadership positions in the ILA and the American Branch.

[21] ABILA's May 1971 annual meeting featured a dinner address by US Ambassador to the United Nations (and future US President) George H.W. Bush about revitalizing support for the United Nations in the United States, and a panel, jointly organized with the Association of the Bar of the City of New York, on legal issues in the Middle East. Reports at this annual meeting indicated that the Branch had made significant progress preparing to host the 55th ILA conference in New York City in 1972, which would also mark the Branch's 50th anniversary.

2018-2019

[22] During the past half century, American Branch membership had fluctuated between about 300 and 640, while gender diversity had increased significantly. The ILA's November 2018 report on membership of branches listed the number of ABILA members at 364, the most of any branch. Approximately 40 percent of all individual members were women, as were over

40 percent of Branch officers. Professor Leila Sadat of Washington University in St. Louis was President of the American Branch during 2018-2019, and Professor David Stewart of Georgetown served as Board Chair. Former Branch President Ruth Wedgwood was a Vice President of the ILA, and former Branch President James Nafziger a Vice-Chair of the ILA's Executive Council.

[23] American Branch members exhibited a strong ethos of working together on teams to study a range of topics and to organize conferences and events. Approximately 40 percent of members joined Branch committees. The International Human Rights Committee – the Branch's largest – had several subcommittees and working groups. Some Branch committees contributed to the work of corresponding ILA committees, and many Branch committees also undertook a range of innovative projects of their own. For example, the Branch Study Group on Threats to the Liberal International Order was planning a book presenting interdisciplinary perspectives, and the Human Rights Committee's Subcommittee on US Compliance with International Human Rights Law engaged in advocacy projects, e.g., filing a petition with the Inter-American Commission on Human Rights, preparing an *amicus* brief in a US case concerning the treatment of immigrant children, and working on a stakeholder report for submission to the UN Human Rights Council. Branch committees also organized approximately 20 panels and roundtables at the 2018 and 2019 International Law Weekends, a major focal point of ABILA educational and professional service. Each Weekend, which attracted over 1,000 registrants, featured approximately three dozen panels and noted speakers, including Yale Professor and former US State Department Legal Adviser Harold Koh in 2018 and former US Ambassador-at-Large for War Crimes Stephen Rapp in 2019. The UN Permanent Missions for Estonia and Singapore hosted ILW receptions. The Branch also staged two regional ILWs during 2018-2019, and the Branch's Committees on International Human Rights, International Investment Law, Space Law, and United Nations Law co-organized or co-sponsored events at various universities, law firms, and independent venues. Branch members remained active at the international level, filling over 75 positions on ILA committees and study groups. Five ABILA members served as ILA committee or study group chairs or vice-chairs, and six were rapporteurs.

V. Retrospective

[24] 2022 marks the American Branch's centennial. Some things have remained constant over the past century. Branch leaders from private practice and academia generously volunteer their time and energy. Committees remain at the core of ABILA's activities. Distinguished speakers engender lively discussions at annual meetings. The American Branch's *Proceedings*, first published in 1922, continue to provide a thorough compendium of Branch activities. The Branch periodically hosts ILA conferences, most recently in 2014, and Branch members continue to participate actively in the work of the ILA's Executive Council, committees, and conferences.

[25] During the American Branch's first century, its work and membership have changed, in line with developments shaping international law and non-profit professional organizations. The Branch's early focus on commercial topics and codification has expanded, with its committees now also engaged with a broad range of public international law subjects. Branch projects are more varied than in the past, and many, such as committee podcasts and electronic

publications, take advantage of modern technology. Educational and professional outreach has increased as ABILA has organized numerous panels and conferences, most notably International Law Weekend. New publications have joined the Branch *Proceedings* as means of communicating with members and the broader international law community. There has been significant growth in the number of women members and leaders in the American Branch, and the Branch reaches more varied audiences than in the past.

[26] Through the decades, ABILA has made numerous important contributions to the study and progressive development of international law. In-depth Branch committee reports and other published studies have been particularly instrumental. The American Branch remains a leading international law organization in the United States, actively supporting the mission of the ILA and pursuing its own ambitious committee studies, publications, conferences, and collaborations with other international law organizations.

VI. Bibliography

[27] For more about the history of the American Branch, see M. W. Janis, *America and the Law of Nations, 1776-1939* (2010), at 134-138, 207-211; K. H. Nadelmann, 'The International Code Committee's Centennial Celebration and the Centenary of Field's International Code', 70 *American Journal of International Law* (1976) 519; K. H. Nadelmann, 'Notes on the History of the International Law Association', 1977-1978 *Proceedings of the American Branch of the International Law Association* 2; and 'The International Law Association and the American Branch of the International Law Association', 2013-2014 *Proceedings of the American Branch of the International Law Association* 3. Detailed records of speeches, panels, committee reports, conferences, and Branch news appear in the Branch *Proceedings*, published since 1922, and in the *ABILA Newsletter*, published since 1974.

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