



NEWSLETTER

ILA 81ST BIENNIAL - ATHENS, GREECE

The International Law Association's (ILA) Biennial took place on June 25-28, 2024 in Athens, Greece. The theme was '*International Law in a fluid world / Le droit international dans un monde en mouvement*,' hosted by the Hellenic Branch.

This year's biennial event included discussions ranging from Sustainability and Climate Change and the Future of International Humanitarian Law to Global South/Global North: Moving Forward. Over 25 American Branch members were in attendance, with several presenting on panels and hosting meetings of ILA Research Committees. The Hellenic Branch held several social events, including a guided tour of the Acropolis Museum, a gala dinner at the Yacht Club of Greece, and a post-conference excursion to the archeological site of Delphi.

The 81st Biennial also welcomed the next ILA Chair, Professor Christine Chinkin of the London School of Economics and Political Science and the University of Michigan Law School, and the ILA's next President, Maria Gavouneli of the National & Kapodistrian University of Athens. This is the first time in the ILA's 150-year history that women have held both roles.

Paolo Farah reflected on his time at the 81st Biennial for the American Branch's summer newsletter, which you may read from page 3 onwards.

The 82nd ILA Biennial will be hosted in Vienna, Austria in 2026. We look forward to seeing American Branch members in Vienna.

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Letter from our American Branch President

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

ila-americanbranch.org

Editor's Note:

The names of ABILA members are identified in **bold** throughout this *Newsletter*. Join the Branch and be recognized!



Dear fellow ABILA members,

"Now more than ever" proclaims the tagline of the Branch's website in reference to the importance of international law to contemporary world problems.

As members of America's branch of the International Law Association, our eyes are undoubtedly on the upcoming national election. Usually, international law and foreign policy are not significant issues in national politics. "It's the economy, stupid," was long thought to be political gospel.

But this election is likely to be different. According to polls, a divided America cares deeply about the conflicts in Ukraine and the Middle East, the influx of migrants from south of the border, the looming trade war with China, the nuclear threat posed by Iran and North Korea, and the escalating climate crisis.

"Now more than ever," we, the members of the ABILA, have a valuable part to play in educating the electorate about the relevance and significance of international legal norms and institutions. In the weeks ahead, ABILA members will provide background to reporters, appear on news broadcasts, and write blogs and Op-Eds. And many of these issues will be the subject of discussion at our upcoming International Law Weekend, just a few days before the election.

I look forward to seeing you in New York in October!

Sincerely,

Michael Scharf

President of the ABILA

Associate Dean for Global Legal Studies, Case Western Reserve University School of Law

ILA Biennial Continued (pg. 1)



Moving Peace and Security Forward: Sir Michael Wood, August Reinisch Patrícia Galvão Teles, Constantine Antonopoulos, and Leila Sadat.



Paolo Davide Farah
Professor at West Virginia University

An ILA Biennial Reflection by Paolo Davide Farah

It was an absolute pleasure to participate in the 81st Biennial International Law Association (ILA) Conference, held in the historic city of Athens from June 24-28, 2024. The conference theme, "International Law in a Fluid World," was both timely and thought-provoking, reflecting the evolving nature of international legal challenges in our rapidly changing global landscape. One of the highlights of my time in Athens was the opportunity to contribute to the first meeting of the ILA Committee on Business and Human Rights. It was wonderful to connect with a large and international group of esteemed colleagues from ILA branches around the world.

Special thanks are due to Humberto Cantú Rivera and Markus Krajewski for their exceptional work as Chairs of the ILA Committee on Business and Human Rights. It was fantastic to connect with other committee members, including Andreas Kulick, Vivienne Bath, Oonagh Fitzgerald, and Marcin J. Menkes, among many others. Representing ABILA alongside **Peter K. Yu** and **Louise Ellen Teitz** was a great honor; I am confident that our contributions will help shape the future of international law in this crucial area.

During the open session meeting of the ILA Committee on Business and Human Rights, we were also joined by Ioanna Tourkochoriti. Along with Ioanna and a few other colleagues, such as Robert Lutz and J. Janewa Osei-Tutu, we will work together to contribute to the newly established Subcommittee on Business and Human Rights within the ABILA Committee on International Human Rights Law. I look forward to collaborating with all ABILA colleagues further as part of the Subcommittee on Business and Human Rights.

Wednesday, 26th June 2024 - ABILA Members Dinner at Amber Athens:



Table 1: Warren Binford, Jennifer Trahan, Alison Dundes Renteln, James Nafzinger, Paolo Farah, Louise Ellen Teitz, Peter Yu, Guillermo Garcia Sanchez, Emily Sadat, and Leila Sadat.



Table 2: Freya Doughty-Wagner, William Byrnes, Michael Bochenek, Charles Booth, Carole Petersen, Ioanna Tourkochoriti, Amy Porges, and Aican Nguyen.



ILA Biennial Continued



Business and Human Rights Committee Meeting - **Paolo Farah**, **Louise Ellen Teitz**, and **Peter K. Yu**.



Enforcing the Rights of Children in Migration Committee Meeting - Chair **Warren Binford** and Member **Michael Bochenek**.

An ILA Biennial Reflection by Paolo Davide Farah, continued

The conference also marked my first in-person meeting as a committee member of the ILA Committee on Submarine Cables and Pipelines under International Law. The in-depth work completed by this committee over the past few years is truly commendable. The third interim report presented was exceptionally relevant, addressing critical issues with great precision. I am eager to contribute to the committee's ongoing efforts and support its path forward under the expert leadership of Chairs Danae Azaria and Tara Davenport.

Throughout the conference, I was privileged to engage with many distinguished colleagues from the American Branch of the International Law Association. Our ABILA dinner was a particular highlight, providing an excellent opportunity to strengthen our network and discuss future initiatives. I extend my gratitude to **Leila Sadat** for her leadership in the ABILA and also for organizing this gathering, and to **Freya Doughty-Wagner** for her outstanding communication and logistical support.

Overall, the 81st ILA Biennial was a resounding success, and I am deeply grateful for the opportunity to be part of such a meaningful and impactful event. I look forward to continuing our work in the coming months and years as we navigate the complexities of international law in this fluid world.



Photo 1: National and Kapodistrian University of Athens Campus

Photo 2: **Ioanna Tourkochoriti**, **Warren Binford**, and **Jennifer Trahan** at the ILA Gala Dinner, Athens Yacht Club

Photo 3: Professor Christine Chinkin, new ILA Chair, and Professor Maria Gavouneli, new ILA President.

American Society of International Law

Annual Meeting | April 3-6, 2024

A Reflection by Jess Peake



In April, the American Society of International Law convened its 118th Annual Meeting in Washington D.C. The theme of this year's conference was "International Law in an Interdependent World," and sought to explore the myriad ways in which the world in increasingly interconnected, underpinned by international law and institutions. The conference included panels on a wide variety of substantive areas, organized into six tracks, spanning from "The African Contribution to the International Law of Democracy" to "China's Looted Cultural Property: Historical Injustice and Current Dilemma," from "NATO at 75: Collective Defence Past, Present, and Future" to "The Tensions of Trade and Sustainability."

The Annual Grotius Lecture was delivered by Dame Meg Taylor, a Papua New Guinean politician, in conversation with Julian Aguon, an Indigenous human rights lawyer and writer from Guam. They discussed "Sovereignty, Survival, and Climate Justice," with a particular focus on the legal and political frontiers affecting the Blue Pacific – used to describe the region of the Pacific Ocean, the island nations within it, and their collective interests. They underscored the increasing urgency of pursuing climate justice through international law, particularly for those from specially affected states who are at severe risk from climate change. Rosemary Barkett delivered the Charles N. Brower lecture, named in honor of Judge Charles N. Brower for his many contributions to the field of international law. During her remarks, Judge Barkett spoke about "Process and Adjudication", drawing on her many years on the judiciary, including at the Iran-United States Claims Tribunal, the United States Court of Appeals for the Eleventh Circuit, and as Chief Justice of the Florida Supreme Court.

Among the many excellent panels, of particular note, was an exceptional conversation on the conflict in Gaza. To a standing-room-only audience, moderator Vivian Salama (The Wall Street Journal) guided the three speakers - Janina Dill (Blavatnik School of Government of the University of Oxford), Eliav Liebllich (Tel-Aviv University Faculty of Law), and Dr. Ardi Imseis (Queen's University Faculty of Law) – through an international law analysis of the conflict, options for accountability, and the ways in which the conflict may be brought to an end. Attendees left with a much deeper understanding of the international law nuances of self-determination, genocide, war crimes, state responsibility, and what it will take to ensure a solution where the rights of Palestinians are respected.

Several prizes were awarded to an array of distinguished scholars and practitioners. José E Alvarez (NYU School of Law) received the Manley O. Hudson medal for his outstanding contributions to the development of international law. The Goler T. Butcher medal was awarded to Roya Boroumand, a leading Iranian activist who is the founder and Executive Director of the Abdorrahman Boroumand Center, an NGO dedicated to the promotion of human rights and democracy in Iran, which helps to restore the dignity of Iran's many victims of human rights violations by the Islamic Republic of Iran. Justice Ben Kioko from the African Court on Human and People's Rights was named an Honorary Member of the Society, awarded to an individual who has rendered distinguished contributions or service in the field of international law. This Annual Meeting brought together more than 1,500 international law practitioners and academics and offered wonderful opportunities for networking, connection, and collaboration. The rich and varied program was put together by co-chairs Julian Arato (University of Michigan School of Law), Christina Beharry (Foley Hoad), and Hannah Garry (UCLA School of Law), supported by a committee of 31



Jess Peake is the Director of the International and Comparative Law Program at UCLA Law.



Jim Nafziger



Jess Peake, Chloe Baldwin, Frédéric Sourgens, Madaline George and Amity Boye

International Law Weekend 2024

Organizing Committee

CO-CHAIR



Warren Binford
University of Colorado

CO-CHAIR



Madaline George
White & Case LLP

CO-CHAIR



Frédéric Sourgens
Tulane University



Diane Marie Amann
University of Georgia



Chole Baldwin
Steptoe & Johnson LLP



Michael Garcia Bochenek
Human Rights Watch



Christine Carpenter
Dechert LLP



Rez Gardi
University of Auckland



Preston Lim
Villanova University



Asaf Lubin
Indiana University



Viren Mascarenhas
Milbank LLP



Jessica Peake
UCLA Law



Douglas Pivnichny
United Nations



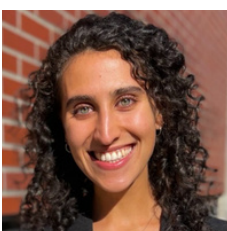
Hadley Rose Staley
Friends of the Public-Private Partnership
for Justice Reform in Afghanistan



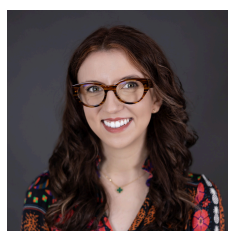
Achinthy Vithanage
Pace University



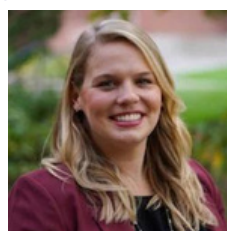
Elisabeth Wickeri
Fordham University



Naomi Rothenberg
student representative



Freya Doughty-Wagner
ABILA CCO
ex officio



Julia Liston
ABILA COO
ex officio



Leila Nadya Sadat
ABILA Chair
ex officio



Michael Scharf
ABILA President
ex officio

International Law Weekend 2024

October 24-26, 2024 | New York City



Powerless law or law for the powerless?

The unifying theme for ILW 2024 is *Powerless law or law for the powerless?*, as follows:

International law faces an existential threat as history unfolds at unprecedented speed worldwide. Indeed, international law and international institutions at times appear incapable of protecting vulnerable persons against war, disease, hunger, exploitation, climate change, and other human and natural catastrophes. Some people—both individually and collectively—are openly eschewing legal values and frameworks in order to pursue results through other means, including dangerous and destabilizing ones. Is international law, in fact, powerless or does it remain a source of power that vulnerable persons can utilize to protect and advance their rights and interests? This year’s ILW is focused on engaged, interactive, and inclusive discussions about how international law can transcend perceptions and misperceptions of its powerlessness and fulfill its aspirations of balancing power through principles of justice, equality, and dignity.

ILW 2024 Co-Chairs

Warren Binford is the Co-Chair of our International Human Rights Law Committee and a long-standing member of ABILA. She is an international children’s rights scholar and advocate whose research and writing largely focuses on 21st century forms of childhood harms. She has published a wide variety of 80+ works and given hundreds of presentations worldwide.



Binford says: “*International Law Weekend has always been one of my favorite events of the year because of the powerful and relevant exchanges that happen when you bring together hundreds of international law students, professionals, and academics to rigorously address the most difficult problems we face as a global community. The fact that I was asked to serve in this role in 2024—the 100th anniversary of the League of Nations 1924 Declaration of the Rights of the Child—is especially exciting because the occasion reminds us of the impact that international norms and laws have played, and can continue to play, in changing the course of history for current and future generations.*”



ILW 2024 Co-Chairs Continued

Madaline George has been the ears and eyes of ABILA for many years, only recently having left her position as ABILA COO to join White & Case as their Global Citizenship Manager. George was the Senior Fellow at the Whitney R. Harris World Law Institute, working alongside our Chair Leila Nadya Sadat, before becoming ABILA's Membership Officer, International Law Weekend Coordinator, and finally Chief Operating Officer.



George says: *"Having worked on ILW over the past decade, I am thrilled and honored to step into this new role as an ILW 2024 co-chair, alongside my distinguished colleagues. I have seen first hand the unique environment that ILW provides for students, practitioners, academics, diplomats and more from across the globe to discuss some of the most pressing issues affecting the international community. This year's Organizing Committee and theme emphasize the importance of bringing all voices to the table, and we look forward to deepening these conversations in the fall."*

Frédéric Sourgens is on ABILA's Board of Directors and is a regular feature at ILW, having presented on several environmental and energy-based panels with his quintessential enthusiasm. Additionally, his book *Good Faith in Transnational Law, A Pluralist Account* (Brill Nijhoff, 2022) was voted ABILA's Book of the Year 2023. Sourgens is the James McCulloch Chair in Energy Law at Tulane Law School and Director of the Tulane Center for Energy Law and previously served as the Senator Robert J. Dole Distinguished Professor of Law at Washburn University School of Law.



Sourgens says: *"I look forward to the vibrant exchange particularly with the next generation of international lawyers. Engaging with them on the role of international lawyers in a world that increasingly challenges the very idea of an international rule of law is going to be instrumental in returning us to a path where law is again a powerful force in guiding and constraining global action that can hope to solve our shared and existential problems."*

ILW 2024 Opening Plenary

This year's opening plenary will be held on Thursday, 24th October, at the New York City Bar Association. The 2024 Opening Plenary will focus on the workings of the International Court of Justice. Our President, **Michael Scharf**, will interview:

- **Professor Lori F. Damrosch**, Hamilton Fish Professor of International Law and Diplomacy of Columbia Law School
- **Professor Harold Hongju Koh**, Sterling Professor of International Law of Yale Law School and former Legal Adviser of the U.S. Department of State
- **Professor Sean D. Murphy** of George Washington University Law School and Special Rapporteur for Crimes Against Humanity
- **Dr. Nilüfer Oral**, Director of the Centre for International Law at the National University of Singapore and Member of The Hague Academy of International Law Curatorium.

International Law Weekend 2024

Introducing: ABILA's first Student Representative

Every year, the ABILA Organizing Committee dedicates months to curating a weekend full of insightful panels, networking opportunities, and collaborative sessions. This year, the Committee welcomed its first law student representative, **Naomi Rothenberg**, who recently graduated from Seattle University School of Law. Rothenberg joined the Committee to continue her involvement with the ILA.



Naomi first learned of the ILA in 2019 when she became involved with the ILA Study Group on Cross-Border Violations of Children's Rights. As a student focused on the implications of climate change and displacement, she had recently conducted interviews in Chile, exploring migrant and racial justice through a public health lens. Soon afterward, Naomi learned of Warren Binford's efforts advocating on behalf of families separated at the US border. Warren introduced her to the ILA, where Naomi contributed as a research assistant, noting trends in the treatment of children in migration and enforcement mechanisms to uphold their rights.

Naomi was motivated by the ILA's ability to harness the expertise of legal advocates from across the world to effectuate change, which ultimately inspired her to join the legal profession. In law school, she expanded her impact through fellowships and internships focused on racial justice, public defense, and family separation through the family regulation system. Throughout law school, Naomi maintained her involvement with the ILA Study Group, and the resulting Committee on Enforcing the Rights of Children in Migration. She also served as an ABILA Student Ambassador for the 2022 International Law Weekend. Naomi notes that it was affirming to see hundreds of attendees eager to address the most pressing challenges in international law. Now, as the inaugural student representative on the Organizing Committee, she has had an active role in building this year's ILW. Naomi is eager to see the Committee's efforts come to life in New York this October, where advocates from around the world will gather to share approaches and trends in international law and partner in advancing the field and the clients they represent.

Emerging Voice to the Organizing Committee

by Christine Carpenter

I am an attorney at Dechert LLP, where my practice focuses on cross-border litigation and international arbitration matters, particularly on matters concerning elements of public international law or foreign law. I have represented clients, including corporations, state entities, and individuals, in civil disputes involving contracts, Foreign Sovereign Immunity Act, Class Action Fairness Act, and Anti-Terrorism Act issues. I have also advised private parties and sovereign States in Europe and the Americas regarding international disputes in the energy, internet governance, and other sectors.





Emerging Voice to the Organizing Committee Continued

For me, International Law Weekend will always hold a special place in my heart. It was the very first international law conference I attended as a 1L in law school. Because of the structure of law school curriculum for 1Ls, I had no international law electives in my schedule that semester. Having the opportunity to come up to New York for the weekend and be immersed in the incredibly rich programming at ILW, while meeting fellow students and professionals who shared my interest in international law, was a highlight of that first law school semester.

It was a deeply special moment both personally and professionally when I was able to return to ILW last year—after completing my law degree and two years of practice—to participate in the Emerging Voices panel, and now to participate on the Organizing Committee for ILW 2024. If you had told 1L-me back then what the early years of my career had in store, she would have been over the moon.

I have attended several ILWs over the years, and have always really enjoyed them. It has been a great learning experience to participate on the Organizing Committee this year and gain insight into the enormous amount of shared effort that goes into executing one of the largest conferences in international law. I am also very much looking forward to seeing how some of the structural changes the OC is implementing this year play out at the conference. Specifically, as this relates to the Emerging Voices panel, I am excited to see how the panel functions in its earlier timeslot on Thursday afternoon. As a young scholar just beginning to gain experience with presenting your work, I can say from first-hand experience that the nerves leading up to your presentation can be very distracting. Hopefully, this change will let the panelists feel more present and at ease for the remainder of the conference. We are also implementing an Early Career Reception on the first night of the conference this year. Having participated in similar events at other conferences, I have found them to be hugely beneficial both for professional development and networking and for catalyzing lasting friendships and connections with peers in this space. I can't wait to see this event take shape at ILW 2024!

ABILA 2024 Student Ambassadors

We are excited to introduce our Student Ambassadors, who will assist with the work of the American Branch, especially in preparing for [International Law Weekend 2024 \(ILW 2024\)](#).



From L-R:

Helen Bamiro - *Fordham University School of Law*; Mina Nur Basmaci - *Washington University School of Law*; Madison Graham - *University of Georgia Law School*.

From L-R:

Anne Harper - *Benjamin N. Cardozo School of Law*; Cris Kelman - *University of Denver Sturm College of Law*; Paulina Macías Ortega - *Georgetown University Law Center*.

A Reflection on the Life of Benjamin Ferencz

by Jennifer Trahan and Annegret Hartig

The American Branch of the International Law Association is sad to report the passing of one of the most impactful and inspirational practitioners of International Law in modern times. Benjamin B. Ferencz died on April 7, 2023, at the age of 103. He was a tireless advocate for international criminal justice and the last living prosecutor from the Nuremberg war crimes trials. Recently, he received the US Congressional Gold Medal in recognition of his service to the United States and the international community.



Born on March 11, 1920, in Transylvania, now modern-day Romania, Ben soon fled from anti-Semitic persecution together with his parents and emigrated to the United States. Ben grew up in New York City, and in 1940, was awarded a scholarship to Harvard Law School where he graduated with honors.

After the onset of World War II, Ben enlisted in the United States Army in 1943, and joined an anti-aircraft artillery battalion preparing for the liberation of France. He fought in most of the major campaigns in Europe. As Nazi atrocities were being uncovered, Ben was transferred to a newly created War Crimes Branch of the U.S. Army to gather evidence of war crimes that could be used to prosecute those responsible. Ben documented the horrors perpetrated by Nazi Germany, visiting concentration camps as they were liberated.

After the war, Ben became Chief Prosecutor for the United States in The Einsatzgruppen Case, which the Associated Press called “the biggest murder trial in history.” Twenty-two defendants were charged with murdering over a million people. He was only twenty-seven years old. It was his first case.

All of the defendants were convicted. Thirteen were sentenced to death. The verdict was hailed as a great success for the prosecution. Ben’s primary objective had been to establish a legal precedent that would encourage a more humane and secure world in the future.

Since the 1970s, Ben worked tirelessly to promote the development of international mechanisms to outlaw and punish crimes under international law, with a particular focus on the need to prosecute the crime of aggression (the leaders responsible for aggressive war-making). To this end, he published several books, such as “Defining International Aggression – The Search for World Peace” in 1975, the two-volume documentary history “An International Criminal Court-A Step Toward World Peace” in 1980, and the two-volume book Enforcing International Law-A Way to World Peace which was published in 1983.

With the end of the Cold War, the international community started to discuss the possibility of establishing an international criminal court in the 1990s. Active from the beginning, Ben participated in the Preparatory Commission sessions for the International Criminal Court, monitoring and making available his expertise on current efforts to define aggression. His efforts contributed to the establishment of the International Criminal Court and to the recognition of aggression within the ICC’s Rome Statute as an international crime.

Ben continued to mobilize support for the International Criminal Court, working tirelessly as part of the Special Working Group on the Crime of Aggression to conclude the definition of the ICC’s crime of aggression and conditions for the ICC’s exercise of jurisdiction over the crime.

Throughout his work, Ben optimistically championed the goal of replacing the “rule of force with the rule of law.” He truly lived his main message “never give up” and gave speeches throughout the world until his death to promote international justice and the rule of law.

Ben will be sorely missed but his inspiration will live on.



International Law Weekend Midwest September 26-27, 2024 | CWRU



Keynote Speaker:
John B. Bellinger III
of Arnold & Porter LLP

ILW-MIDWEST 2024

THE GENEVA
CONVENTIONS AT 75:
NEED FOR INNOVATION

SEPTEMBER 26-27, 2024
CASE WESTERN RESERVE UNIVERSITY

In an age of new technology and means
of warfare, it will focus on whether
there is a need for a new Geneva
Convention for the challenges of the
21st century?



SCHOOL OF LAW
CASE WESTERN RESERVE
UNIVERSITY



INTERNATIONAL
LAW ASSOCIATION
AMERICAN BRANCH • EST. 1922



The Geneva Conventions at 75: Need for Innovation

This symposium, which serves as the Midwest Regional Conference of the American Branch of the International Law Association, will commemorate the 75th Anniversary of the 1949 Geneva Conventions. Two dozen of the world's leading experts in international humanitarian law will participate as speakers and panelists. In an age of new technology and means of warfare, it will focus on whether there is a need for a new Geneva Convention for the challenges of the 21st century?

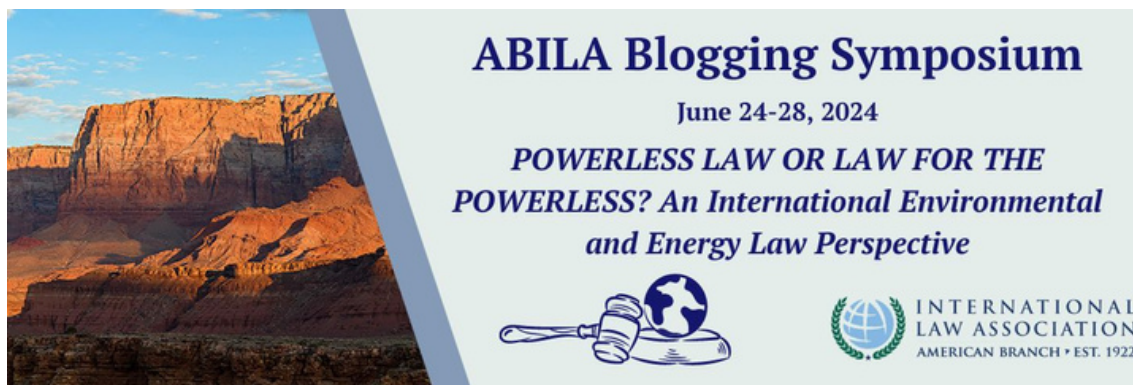
The agenda will include several ABILA members, including:

- A welcome from **Professor Leila Nadya Sadat**, Washington University School of Law, Chair of the Board of Directors of the American Branch of the International Law Association
- "75 Years of the Geneva Conventions: Successes and Failures" – a fireside chat featuring James Johnson, Chief Prosecutor of the Residual Special Court for Sierra Leone, and Associate **Dean Michael Scharf**, President of the ABILA
- *Is there a need for a Geneva Convention on Cyber Warfare?* featuring **Professor Jennifer Trahan**, New York University, and Co-Director of Studies for ABILA
- *Is there a need for a Geneva Convention on Treatment of Non-State Actors?* featuring **Professor Gabor Rona**, Benjamin N. Cardozo School of Law, and a Member of the ABILA Board of Directors
- *Is there a need for a Geneva Convention on Autonomous Weapon Systems?* featuring **Professor Craig Martin**, Washburn University School of Law and ABILA Member, and **Professor Milena Sterio**, Cleveland State University College of Law, and a Member of the ABILA Board of Directors
- Lunch Address from John Bellinger, Arnold & Porter, and former Legal Adviser of the U.S. Department of State and of the National Security Council

[Register here.](#)

ABILA's First Blogging Symposium

June 24-28, 2024



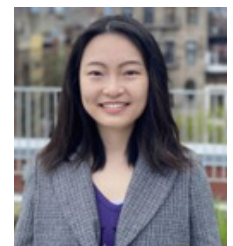
In the American Branch's first blogging symposium, various authors addressed International Law Weekend 2024's theme of 'Powerless law or law for the powerless?' from an International Environmental and Energy Law perspective. Earlier this year, the American Branch put out a call for abstracts addressing this theme. The International Environmental and Energy Law Committee Co-Chairs **Carolina Arlota**, **Myanna Dellinger**, and ABILA's CCO **Freya Doughty-Wagner** selected the five best abstracts. These complete pieces were published once a day, starting Monday, 24th June, and concluding on Friday, 28th June.

Symposium Overview

Monday:

Empowering Law in Earth System Models* by Yirong Sun

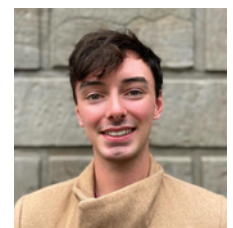
Yirong Sun is a Research and Teaching Fellow at Guarini Global Law & Tech (GGLT) and the Institute for International Law and Justice at New York University School of Law. She holds an LL.M. in International Legal Studies from NYU Law, an LL.B. from Tsinghua University School of Law, and minored in Economics at Tsinghua University School of Social Sciences.



Tuesday:

Closing the Accountability Gap: The Urgency of Mandatory Corporate Climate Commitments by Eoin Jackson

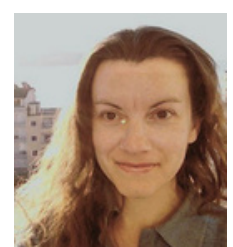
Eoin Jackson is an incoming PhD candidate at the London School of Economics and Political Science, Chief of Staff/Legal Fellow for the Climate Governance Commission, Irish Rapporteur for the Sabin Center for Climate Change, and a Co-Director of Law Students for Climate Accountability UK. Jackson holds an LL.M. from Harvard Law School and an LL.B. from Trinity College Dublin.



Wednesday:

Gwich'in Rights are Caribou Rights* by Kimberley Graham

Kimberley Graham is an Independent Specialist and Researcher; her research interests include diverse human relationships with animals and nature and how they are reflected in environmental legal regimes and political structures. She is a Member of the IUCN World Commission on Environmental Law, the Global Network for Human Rights and the Environment, and the Research Group on Rights of Nature & Animals.





ABILA's First Blogging Symposium Continued

Thursday:

Lessons from the Rana Plaza: Arbitrating Human Rights Claims against Transnational Companies

by Galo Martín Márquez Ruíz
Galo Márquez is an Associate at Creel, García-Cuellar, Aiza y Enríquez specialized in International Arbitration, Legal Assistant to former ICJ Vice-President, Judge B. Sepúlveda Amor, and Professor at Tec de Monterrey University in Mexico City. Galo is a Member of the Academic Forum on Investor-State Dispute Settlement and the CAM/CANACO Forum Chair for Arbitration Practitioners. In 2024, he was awarded the Johnny Veeder International Arbitration Scholarship.



Friday:

Using Climate Financing as a Guide for Environmental Justice Compensation in Kiribati

by Mariah R. Bowman
Mariah R. Bowman is a recent Pace University's Elisabeth Haub School of Law graduate, with additional certificates in International Law and Environmental Law. Bowman has interned for the Indiana Department of Transportation, the US Environmental Protection Agency, the Animal Legal Defense Fund, and the Permanent Mission of Costa Rica to the United Nations.



*signifies the top two blogs that are published in this newsletter.

All blog posts can be read on our website [here](#). After International Law Weekend 2024, we will publish a call for our second symposium - please look out for this on our website and social media.

Empowering Law in Earth System Models *by Yirong Sun*

Earth system models are increasingly used not only for advancing scientific understanding of global environmental changes, as seen in the [IPCC assessment reports](#), but also for designing climate change adaption measures like [early warning systems](#) for hazards, and providing guidance for policy and decision-making at global, regional, and national levels, such as [Destination Earth](#) for green transformation in the EU, and [forest adaptation and management](#) in Canada.



Reflecting the development in Earth System science, Earth System Law scholars are setting ambitious [research agendas](#) to address the challenges of the Anthropocene by proposing legal transformations grounded in an Earth System perspective, including a [reimagination of international environmental law](#).

While these proposals are promising, it remains to be seen if they challenge the power dynamics in science-making that inform global environmental governance.

ABILA's First Blogging Symposium

Continued

The identification and understanding of global environmental crises have long depended on science. International environmental law has traditionally focused on providing institutional support for environmental science rather than engaging in the substantive processes of its norm creation.

This blog argues for a paradigm shift by referring to the [Global Data Law](#) and Infrastructure as Regulation ([InfraReg](#)) project at New York University School of Law.

Empowering law in Earth System Models means establishing a bidirectional relationship between law and Earth system science. (Re-)Claiming law's territory is essential, as environmental physical models often form the conditions for and couple with social system models to project futures of human societies. The [scenario models](#) developed by the [IPCC](#) are particularly influential as they are widely embraced by [central banks](#), [financial institutions](#), and [corporations](#) with gigantic climate governance impacts, while receiving no scrutiny from international law.

This blog will unpack the argument with three scenes: global epistemic infrastructures, data inequalities, and the struggle of scales.

Global Epistemic Infrastructures

The relationship between law (or broader policy-making) and [boundary organizations](#) like the IPCC and the [IPBES](#) is traditionally understood as separate, a condition many theorists believe is necessary for science to maintain its objectivity and “speak the truth.” This separation accompanies the [technocratic international thought](#), where issues like transmissible diseases, chemicals, and environmental problems are subleased to a [network of experts](#) for solutions in international governance.

However, global environmental knowledge production is plagued by power imbalances created by [epistemic infrastructures and accompanying culture](#) that marginalize certain forms of social scientific knowledge, leading to a hierarchy in disciplinary knowledge. There are further disparities in participation between Northern countries and the Global South, and although there is now more recognition, Indigenous knowledge systems remain marginalized (see [here](#), [here](#), and [here](#)). Despite rising awareness in social science and humanities about these epistemic infrastructures, international law has primarily remained unresponsive. In emerging climate litigation trends, the work of the IPCC is often accepted wholesale as reflecting scientific consensus, as demonstrated by the recent [ITLOS Advisory Opinion](#):

“With regard to climate change and ocean acidification, the best available science is found in the works of the IPCC which reflect the scientific consensus. As noted in paragraph 51 above, most of the participants expressed the view that the IPCC reports are authoritative assessments of the scientific knowledge on climate change and referred to them in their pleadings in the present proceedings. [...]”
(para 208, emphasis added)

Global epistemic infrastructures represent dominant ways of global knowledge re-production and circulation using Earth system models for its physical science foundation, coupled with socio-economic models for assessment. Earth system models continue to evolve, but they are not perfect and likely never will be.



ABILA's First Blogging Symposium Continued

The role that law should play in this process is not to verify the correctness of scientific results as it cannot – but to ensure justice through fair and equitable processes in knowledge production and circulation. The right to science could be a starting point, leveraging existing legal tools for power rebalancing. Learning from recent experiences with the IPBES, the law may even intervene further, as the approval process for the text of “summary for policymakers” almost transformed this inter-governmental expert body into negotiation sites for draft articles and resolutions.



Data Inequalities and Risks of Extraction

Earth system science, which provides the scientific foundation for understanding today's global environmental challenges, fundamentally relies on data and modeling. However, the availability and generation of this data are largely unequal across both temporal and spatial dimensions.

These data inequalities stem from disparities in the “power to data-fy” and control over data. One easily identifiable cause is the uneven development of data infrastructures, particularly terrestrial-based observing networks. Time-sensitive model applications, such as early warning systems, require timely and accurate terrestrial observations, which many low-income regions cannot afford, leaving their populations particularly vulnerable.

Moreover, the data input in Earth system models spans various timeframes, often including decades-old data managed by municipal agencies, such as grazing and land management practices. This data is frequently unavailable due to a lack of stable governmental agencies to maintain such records, initial non-generation, loss during conflicts, or concerns over sovereignty and security. For Indigenous lands, the use of such data might lead to further extractive operations without right-owners' consent, when Indigenous people have already suffered disproportionately from global extractive and industrial projects.

Though likely well-informed about data gaps in their research, scientists must be better positioned to address data inequalities in the face of global environmental challenges. They are trained to work with the best available data and address data inefficiencies by employing proxies, analytical methods, or derivatives. While scientists can identify needs within their community, legal mechanisms to ensure equal data generation and more equitable data governance are needed to address the socio-legal concerns mentioned above.

As more groups outside academia mobilize to use and apply available scientific knowledge, the accelerated circulation of scientific findings and an expanded audience and downstream user groups amplify the dangers of data gaps.

ABILA's First Blogging Symposium

Continued

Scientific findings generated through Earth system models are often conscious of the compromises made in their data input and model design, accompanied by carefully drafted limitations and scope of application. However, as these findings circulate downstream, the data gaps can evolve from mere limitations into tangible impacts on people's daily lives.

It is thus crucial for law – particularly international law and institutions – to recognize these data inequalities on a global scale. Legal intervention is needed to build capacity and establish more equitable data governance regimes. This is especially important as efforts toward adaptation and mitigation in the Anthropocene increase, particularly initiatives from highly industrialized areas where advanced sensors are readily available.

A Constant Struggle of Scale

In Earth system models, Earth is represented, simulated, and projected using grid-boxes as the basic unit. Although approaches vary and Earth system science is continually evolving, specific patterns and legacies persist in many models today and in the trending Earth Digital Twin initiatives, as identified by Deborah Coen and Fredrik Albritton Jonsson in Between History and Earth System Science:

“We might characterize the geo-epistemology of ESS [Earth system science] according to the following traits: 1) its reliance on remote sensing to produce homogeneous global data; 2) its use of computer modeling to make predictions at timescales deemed relevant to policy making—that is, on the order of decades; [...]”

The first struggle of scale comes with reconciling this “ideal” homogeneous global data framework of Earth system models with the complex realities of data generated, collected, and managed through human administration, often collected by statistical bureaus, such as grazing data.

While the above struggle of scale seems technical, the next issue presents a fundamental tension in both temporal and spatial scales. The concepts of planetary and Earth systems often clash with legal frameworks because they follow different allocation logics. Earth system sciences focus on connections, dynamic processes, and systemic changes across the entire Earth. In contrast, law is an order that persists over time and organizes human activities within relatively stable spatial zones, most notably sovereign states' territories with artificial land and ocean governance divisions.

Earth system science introduces a new mode of connectivity that transcends previous challenges faced by the international community, such as international watercourses, ozone depletion, transboundary pollution, and persistent organic pollutants (POPs). Understanding mechanisms and governance at the Earth system level relies heavily on science, which itself contains more uncertainty than ever before (see predictability in chaotic systems by IPCC).



ABILA's First Blogging Symposium Continued

Discussions have emerged on how sovereignty should be reframed for the Anthropocene. Attempting a revolutionary transformation could be impractical and disastrous, disproportionately affecting those with less power. The challenge lies in creating new institutions and mechanisms while allowing the fundamental order that has organized human activities to continue existing in the Anthropocene.

While the pathway is unclear, it is evident that the current provisions of international law need to be revised to address global environmental challenges. The purpose of this blog is twofold: to alert the legal community against uncritically accepting scientific findings while neglecting structural issues in global environmental science and policy-making and to empower law and, through this law, empower people in the science-making processes. As the regulation of social activities, law serves as a mechanism to achieve justice by redistributing power to empower the powerless.

To achieve this goal, broader legal tools and innovative thinking must be integrated into global environmental governance. Moreover, the concerning trend of using Earth system modeling unconsciously undermines the pluralism of knowledge systems. Given that no single solution exists for the planetary challenges we face today, it is essential to embrace diverse knowledge systems, which serve as the fertile ground for seeds of hope and the future of humanity.

Gwich'in Rights are Caribou Rights

by Kimberley Graham



“What befalls that caribou, befalls the Gwich’in.”

— Bernadette Demientieff, Chair of the Gwich’in Steering Committee

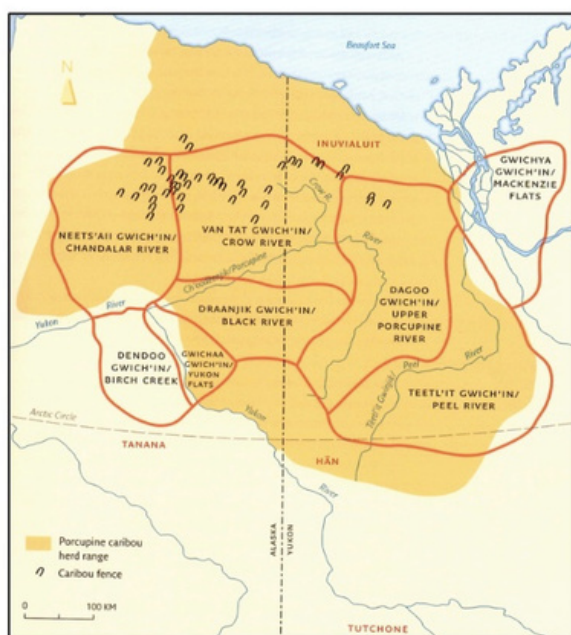
For over three decades, the Gwich’in have worked to protect their way of life, which is deeply interwoven with Porcupine Caribou. Toward preventing oil and gas development on their sacred lands and the birthing grounds of the Porcupine Caribou Herd, the Gwich’in have encountered a domestic legal framework that does not directly address Indigenous human rights violations.

ABILA's First Blogging Symposium Continued

Gwich'in-Caribou Relations

Gwich'in lands across northeast Alaska (United States), Yukon, and North West Territories (Canada) largely mirror the migratory range of the Porcupine Caribou Herd. This is a visual clue of their 'enduring relationship' and why they are called the People of the Lands of the Porcupine Caribou.

For thousands of years, Gwich'in were semi-nomadic, basing their movements on the migration of the Porcupine Caribou Herd. Over time, Gwich'in-Caribou relations became interwoven, multi-dimensional, special, and a source of spiritual guidance. Porcupine Caribou are 'deeply embedded' in Gwich'in culture and are expressed through various lifeways, such as drum songs, dances, tools, clothes, stories, food, and beadwork. At community gatherings, they recall a time when 'our ancestor and the caribou were one' and how, even now, Gwich'in and Caribou 'hold a piece of each other's heart.'



Importantly, Gwich'in-Caribou relations are the foundation for their multi-decade-long opposition to oil and gas development in the Arctic National Wildlife Refuge (the Refuge). Especially on the Coastal Plain, known to them as 'the sacred place where life begins' (lizhik Gwats'an Gwandaii Goodlit), they 'do not step foot' there as it is the birthing and nursery grounds of the Porcupine Caribou Herd. The Coastal Plain is also important 'for many other life forms' such as migratory birds, wolves, owls, and arctic foxes, and where polar, brown, and black bears live side by side.

While mainstream narratives have posited the debate about oil and gas development on the Coastal Plain as an energy vs. wilderness issue, for the Gwich'in, it is a human rights and food security issue.

This is because harm to Porcupine Caribou means harm to the 'nutritional, cultural, and spiritual needs' of all Gwich'in communities and their way of life.

In efforts to protect their interwoven relationship with Porcupine Caribou, the Gwich'in have faced domestic administrative and environmental procedures that 'do not address underlying discriminatory principles,' allowing human rights violations to occur. As the following section will highlight, pre-legislative processes to establish the Refuge did not include the Gwich'in.

Establishing the Refuge: A Brief Legal Overview

The history of Gwich'in (and Iñupiat) peoples' habitation on their traditional lands and their world views, culture, and relationships with wild animals were 'obliterated' with the establishment of the Arctic National Wildlife Range (the Arctic Range) in 1960. Between 1959 and 60, no Senate hearings were held in or near Gwich'in villages or camps.



ABILA's First Blogging Symposium Continued

Most participants were *not* Native Alaskans but from far-away cities and states with vested conservation, scientific, sports hunting, mining, economic, recreational, and wilderness interests. The Arctic Range law reflects these glaring omissions: aiming to preserve 'wildlife, wilderness and recreational values,' but without mention of subsistence needs of rural Alaskans or interwoven Gwich'in-Caribou relations.

In 1980, the Alaska National Interest Lands Conservation Act (ANILCA) was passed. This partly addressed the issue of subsistence rights for local residents — but simultaneously designated the Coastal Plain as 'area 1002' — earmarking it for oil and gas exploration and drilling. ANILCA aims to fulfill international legal obligations and conserve wildlife connected to the Porcupine Caribou. However, it remains silent on Gwich'in-Caribou relations. Furthermore, when Porcupine Caribou are referenced, it is only in the context of a scientific study to understand the potential impacts of oil and gas development activities on the Porcupine Caribou.

International Law to Protect the Porcupine Caribou Herd

In 1987, a Treaty between the United States and Canadian governments entered into force on the Conservation of the Porcupine Caribou Herd (the Treaty). The Treaty acknowledges the 'nutritional, cultural' and 'essential needs' as well as 'customary and traditional uses' of the Porcupine Caribou by 'rural Alaska residents' and 'Native users' who should 'participate in the international co-ordination of the conservation of the Porcupine Caribou Herd and its habitat.' To this end, it establishes an Advisory Board to make recommendations for protecting the Porcupine Caribou Herd in their own right. However, the Treaty lacks an enforcement mechanism and does not elaborate on special Gwich'in-Caribou relations. There are also questions about how the Treaty has been adhered to by both parties. Since the designation of the Coastal Plain as 'area 1002,' numerous concerns have been raised by Canadian First Nation management and co-management agencies, particularly regarding the potential impacts of oil and gas development on Indigenous peoples and their customary and traditional practices. These concerns include the obligation of the United States to notify, coordinate, cooperate, and consult under treaty-based mechanisms, including, but not limited to, mechanisms established by the Treaty on activities likely to disrupt the migration of Porcupine Caribou or their 'important behavior patterns.'

In 1988, all villages of Gwich'in Nations — from northeast Alaska and northwest Canada — gathered for the first time in over 100 years. At that meeting, they agreed that their fate was tied to the health and well-being of the Porcupine Caribou Herd and unanimously opposed oil and gas exploration and drilling in the Refuge. They reaffirmed this position in 2022 with a Resolution to Protect the Birthplace and Nursery Grounds of the Porcupine Caribou Herd (the Resolution) — and have maintained their stance until today. The Resolution recalls international human rights law, in particular, Article 1 of the International Covenant of Civil and Political Rights (ratified by the U.S.) to prevent deprivation of subsistence needs and Article 25 of the United Nations Declaration on the Rights of Indigenous Peoples (supported by the U.S. Government) to 'maintain and strengthen their distinctive spiritual relationship' with traditional lands and resources.

ABILA's First Blogging Symposium

Continued

In 2017, the U.S. Tax Cuts and Jobs Act became law with a provision mandating lease sales for oil and gas development on the Coastal Plain 'by not later than 10 years after the date of enactment.' As a precondition for the sale, the U.S. Bureau of Land Management initiated an Environmental Impact Assessment in 2018. Following an 'aggressive timeline,' the Record of Decision was published in August 2020 to proceed with the 'most destructive drilling alternative' by opening up the entire Coastal Plain for lease sales.

In 2019, the Gwich'in Steering Committee made multiple submissions to the United Nations Committee on the Elimination of Racial Discrimination (CERD), calling for urgent action to stop oil and gas development on the Coastal Plain as domestic remedies 'do not directly address the human rights of the Gwich'in.' In re-affirming their 'cultural, spiritual, and subsistence' relationship with the Porcupine Caribou Herd, they note previous recommendations from the Special Rapporteur on the Rights of Indigenous peoples to the United States on the need to address the absence of a domestic framework that ensures access to justice for violations perpetrated on Indigenous peoples lands and territories. Furthermore, parties to the International Convention on All Forms of Racial Discrimination (ICERD) must prohibit 'practices and legislation which may not be discriminatory in purpose, but are discriminatory in effect.'

The Gwich'in explain the 'discriminatory effect of the U.S.' oil and gas leasing plan will harm the Porcupine Caribou Herd, encroach on Gwich'in sacred lands, impact the health of the Gwich'in through climate change and pollution, and increase the risk of violence against Alaska Native women.' Numerous human rights violations under ICERD are cited, including the right to health, education, food security, nutrition, a clean environment, culture, religion, free, prior, and informed consent, subsistence, and women's safety from violence. CERD responded with a series of letters to the United States relaying their obligations to 'guarantee the respect of the rights of the Gwich'in,' including their right to free prior and informed consent. However, responses to CERD by the United States government were not made public. Since 2020, the Gwich'in Steering Committee made several submissions to the Inter-American Commission on Human Rights with requests for precautionary measures.

Lease sales were issued in January 2021. But, in June, a Secretarial Order was issued (and upheld) to suspend existing leases on the Coastal Plain. It also directs the US Department of the Interior to undertake a comprehensive analysis of the potential impacts of the Coastal Plain Oil and Gas Leasing Program and 'address legal deficiencies' under the National Environmental Policy Act.

The Future for Gwich'in-Caribou Relations

A second lease sale is pending. An environmental review of the oil and gas development plan is underway, due for public release in June, with a final decision anticipated by September 2024. Current leases could be 'reaffirmed, voided or amended to include additional environmental requirements.' Meanwhile, the Gwich'in are still waiting for a domestic legal framework that directly addresses their human rights – which are indivisible from the rights and well-being of the Porcupine Caribou Herd.



ABILA Branch Member News

Catherine Amirfar and **Duncan Pickard** (among others) were part of the Debevoise litigation team that helped secure the landmark ruling from the International Tribunal for the Law of the Sea in response to a formal request from the Commission of Small Island States on Climate Change and International Law (COSIS) for an advisory opinion on the legal obligations of countries under international law related to climate change. Amirfar was also selected as one of Lawdragon's 500 Leading Global Litigators.



Catherine Amirfar

Jack M. Beard was promoted to full Professor, and with Matthew Schaefer, they celebrated 15 years of the University of Nebraska-Lincoln's Space, Cyber, and National Security Law Program.



Duncan Pickard

Warren Binford, ILW Co-Chair, hosted the workshop 'Legal Issues in Tech-Facilitated Child Sex Abuse' as part of the Center for the Prevention of Child Maltreatment's 3rd Annual Legal Workshop. She was also interviewed by the Radio Kempe podcast, where she reflected on the last 100 years of children's rights.

Andrea Bjorklund, **Christiane Ahlborn**, and **Chiara Giorgetti** were included in the European Journal of International Law's Roll of Honour.

Irene Calboli was elected to the European Law Institute and spoke at the Sciences Po event 'Trademark and New Digital Technologies.'

Freya Doughty-Wagner, ABILA COO, became the Director of the Global Network of Human Rights and the Environment's North American Branch.

Aaron Fellmeth, Co-Chair of ABILA's International Human Rights Committee, has been designated the Fulbright Distinguished Chair in Applied Public Policy, where he will be a resident at Flinders University, Australia, in the first semester of 2025.



Luis Fortuño

Luis Fortuño, Chair of ABILA's Arms Control Committee, joined Reed Smith as a Partner in February 2024. He also opened the forum 'Commercial and Investment Opportunities between Puerto Rico and the Dominican Republic.'

Kiran Nasir Gore was awarded the American Society of International Law's 2024 Certificate of Merit for "high technical craftsmanship and utility to lawyers and scholars" for her edited book *The Vienna Convention on the Law of Treaties in Investor-State Disputes: History, Evolution and Future*.

Adil Haque was quoted by the Washington Post in an article about the Israeli military's use of AI, again by The Washington Post in an article concerning Israel's hostage rescue missions, Legal Brief's 'Spain files papers to join SA's ICJ Action,' The Cradle's 'Five Palestinian journalists among dozens killed by Israelis in 24 hours,' and The Cradle's 'Israeli army legitimizes murder of journalists in Gaza: Report.'

Judge Ivana Hrdličková judged the final round of the 2024 Telders International Law Moot Competition at Leiden University.



Judge Ivana
Hrdličková

Larry D. Johnson, a member of ABILA's Board, received an Honorary Doctor of Law degree from his undergraduate alma mater, the University of Nebraska.

ABILA Branch Member News

Continued

M. Imad Khan, ABILA's Secretary, was featured in Global Arbitration Review following his recent promotion to Partner at Winston & Strawn. Khan was also chosen as one of Lawdragon's 2024 500 Leading Global Litigators.

Floriane Lavaud, a member of ABILA's Board of Directors, joined Withersworldwide as a Senior Equity Partner. Lavaud was also chosen as one of Lawdragon's 2024 500 Leading Global Litigators.

Asaf Lubin, a member of the ILW Organizing Committee, was quoted by the LA Daily News. Lubin is also the incoming Chair of the Association of American Schools' (AALS) Internet and Computer Law Section and was elected to the AALS' Law and Technology Workshop's Organizing Committee.

Santiago Palomo was sworn in as the head of Guatemala's new National Commission Against Corruption.

Leila Nadya Sadat, ABILA's Chair, was interviewed by Wisconsin Public Radio about the Israel-Hamas war and by PBS NewsHour about the Israel-Hamas war and the definition of genocide. She was also interviewed by the Expert Voices on Atrocity Prevention podcast and the Asymmetrical Haircuts podcast, and took part in the American Society of International Law's International Humanitarian Law Principles Webinar Series.



Leila Nadya Sadat

Michael P. Scharf, ABILA's President, was interviewed by Cleveland Jewish News with Jessica Berg about their Case Western Law School Co-Dean roles. He hosted his monthly show with NPR Cleveland, Talking Foreign Policy, focusing on the Russia-Ukraine conflict. In February, guests included **Milena Sterio**, Daniel Bilak, Major General Darrell Guthrie, Keven Nealer, and Paul Williams.

Afonso Seixas-Nunes was spotlighted in St. Louis University's President Report 2023 for his work on autonomous weapons.

Milena Sterio, in her role as the Public International Law & Policy Group's Director, participated in the VI International Criminal Law Forum in Ukraine, focusing on the practical legal challenges of wartime justice. Sterio also spoke at Jindal Global Law School's 'Confronting Global Conflicts and the Rule of Law: A Focus on Russia-Ukraine and Israel-Hamas.'

Peter Yu, ABILA's Co-Director of Studies, was awarded Texas A&M's highest faculty award of University Distinguished Professor.



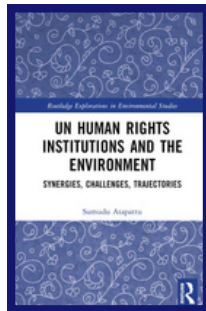
Diora Ziyaeva

Diora Ziyaeva, a Member of ABILA's Board of Directors, was named a 2024 Rising Star by New York Law Journal. She took part in the 12th Annual Georgetown International Arbitration Month. She presented as part of the 'The Use and Misuse of ESG in Investment Treaty Arbitration' panel, the Dentons' In-House Counsel CLE Webinar Series, 'Global Threads: weaving human rights into international supply chains,' and together with Rachel Howie and James Langley, hosted a Dentons podcast episode about the intricacies of deep seabed mining. Ziyaeva was elected as a member of the ICC International Court of Arbitration for the 2024-2027 term.



ABILA Member Publications

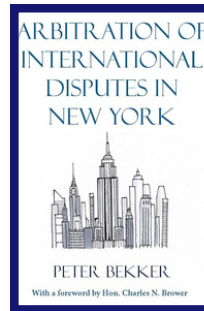
New Blogs, Books, Book Chapters and More:



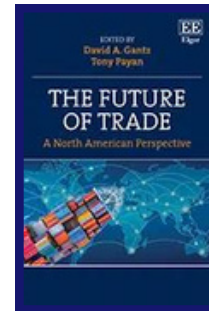
Author:
Sumudu Atapattu



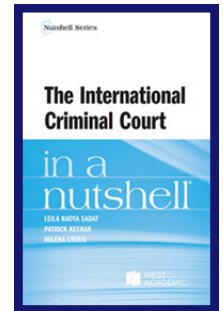
Editor:
Jack Beard



Author:
Peter Bekker



Editor:
David A. Gantz



Authors:
Patrick Keenan,
Leila Sadat,
Milena Sterio

For Just Security, **Kelly Adams** published ‘Support Grows for Gender Justice at UN Session on Draft Crimes Against Humanity Treaty.’

For Just Security, **Catherine Amirfar** and **Duncan Pickard** answered a Q&A on ‘The Oceans Court’ Issues Landmark Advisory Opinion on Climate Change.

Sumudu Atapattu published the book ‘UN Human Rights Institutions and the Environment - Synergies, Challenges, Trajectories,’ with Routledge.

Jack Beard and Dale Stephens published the book ‘The Woomera Manual on the International Law of Military Space Operations’ with Oxford University Press.

Peter Bekker published the book ‘Arbitration of International Disputes in New York’ with Juris Legal Information.

For the Journal of Intellectual Property Law & Practice, **Irene Calboli** published ‘The Protection Against Unfair Competition and Passing Off in ASEAN Member States: a Review and Commentary.’

For the Columbia Journal of Transnational Law, **Cody Corliss** published ‘Digital Terror Crimes.’

For JD Supra, **John Crook**, Jolin Lin, and Rosalind Nicholson published ‘Stay a while: the interplay between winding-up proceedings and the mandatory stay provisions under the BVI Arbitration Act.’

For GNHRE, **Freya Doughty-Wagner** published “‘An embarrassing day for the government’ - the UK’s Climate Plan a Failure,’ and ‘Chevron Overruled: A Devastating Blow to the Environmental Protection Agency.’

For Opinio Juris, **Shea Esterling** published ‘the blog ‘Indigenous Land Rights in Argentina Under Fire: The Significance of the Mendoza Resolution at Domestic and International Law.’

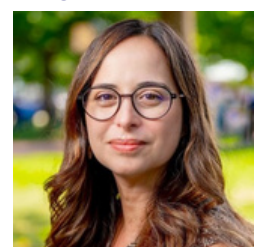
Sean Flynn co-published the ‘Principles on Knowledge Governance Call for Information Justice in Research’ together with a group of copyright academics and researchers.

David A. Gantz and Tony Payan edited the collection ‘The Future of Trade: A North American Perspective’ for Edward Elgar.

Margaret M. deGuzman and **Rachel E López** contributed the chapter ‘Is International Criminal Law Feminist?’ to the ‘Oxford Handbook on Women and International Law.’



Margaret deGuzman



Rachel E López

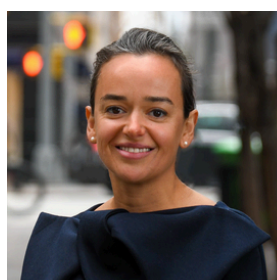
ABILA Member Publications

Continued

Ezequiel Heffes and Katharine Fortin hosted a blogging symposium, ‘Armed Groups and International Law’ for Just Security, building on their 2023 book ‘Armed Groups and International Law - In the Shadowland of Legality and Illegality.’ Heffes also published the blog ‘It is Imperative to Protect Children in War’ for Global Issues and ‘Those Who Violate the Rights of Children in War Must Be Held Accountable’ for Common Dreams.

For Lawfare, **Larry Johnson**, a member of ABILA’s Board of Directors, published ‘Should the United Nations Administer Post-Conflict Gaza?’

For the ICSID Review, **Floriane Lavaud** and **Marta Cannari** published ‘Evidentiary Challenges in the Context of Armed Conflict.’



Floriane Lavaud

For JD Supra, **Aristeo Lopez**, Sally Alghazali, Kelsey Christensen, Mark Ludwikowski, and R. Kevin Williams published the blog ‘New Trade Case on Imports of Melamine from Germany, India, Japan, the Netherlands, Qatar, and Trinidad and Tobago.’ For JD Supra, Lopez et al. also published the blog ‘New Trade Case on Imports of Certain Brake Drums From the People’s Republic of China and Türkiye.’

For the Lieber Institute, **Asaf Lubin** wrote the blog ‘Algorithms of Care: Military AI, Digital Rights, and the Duty of Constant Care.’

James. A. R. Nafziger, an ABILA Honorary Vice-President, contributed the chapter ‘Cultural Heritage and Export Controls’ to ‘The Routledge Handbook of Heritage and the Law.’

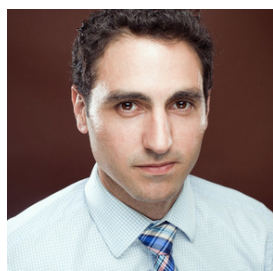
Gabor Rona, a member of ABILA’s Board of Directors, published ‘Can Armed Attacks That Comply With IHL Nonetheless Constitute Genocide?’ for Lawfare with Natalie K. Orpett.

Leila Nadya Sadat, **Milena Sterio**, and **Patrick Keenan** published the book ‘The International Criminal Court in a Nutshell’ for West Academic Publishers. For The Chicago Tribune, Sadat and Keenan published ‘Lawyers: President Joe Biden’s response to arrest warrants against Hamas and Israel is misguided.’ Sadat also published ‘Explainer: The Israel-Hamas War and the International Criminal Court,’ for Jurist and ‘A Draft Treaty on Crimes Against Humanity Draws More Engagement from States’ for Just Security.

Milena Sterio, a member of ABILA’s Board of Directors, spoke to The Repository for their piece ‘Why a Stark County man accused of Rwanda genocide acts isn’t charged with murder in U.S.’ Sterio, with Marie-Ève Plamondon, Melike Tokatlioglu, Joshua Smith, and Tara Ohrtman, hosted a symposium titled ‘Creation of a Single Residual Mechanism for Atrocity Prevention’ for Just Security.



Milena Sterio



Eran Sthoeger

Eran Sthoeger, for EJIL:Talk!, published ‘Resolution 2728 on Israel/Gaza is Significant, But it Is Not a Binding Decision. Sthoeger, with Stephen Webb, Gitanjali Bajaj, and **Claire Robertson**, provided insight into the ITLOS Climate Change Advisory Opinion for DLA Piper.

For Opinio Juris, **William Worster** published ‘The Inadequacy of the US State Department Report on Arms Exports Assurances,’ and for the Wisconsin International Law Journal, published ‘Persons Fleeing from the War in Ukraine and the Future of Emergency Protection, Status, and Rights.’



ABILA Member Publications Continued

Sarah Zarmsky, a 2022 Emerging Voice, and Emma Irving contributed the chapter 'Rewrite of the Decision on the Prosecutor's Application for the Issuance of a Warrant of Arrest for Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud' in 'Feminist Judgments: Reimagining the International Criminal Court' for Cambridge University Press. Zarmsky also published 'Is International Criminal Law Ready to Accommodate Online Harm? Challenges and Opportunities' for the Journal of International Criminal Justice, and with Basak Çali, Joseph Finnerty, Lindsay Freeman, Alexa Koenig, Libby McAvoy, Daragh Murray, Jana Sadler-Forster, and Raquel Vazquez Llorente, co-published the report 'Evaluating digital open source imagery: A guide for judges and fact-finders.'



Sarah Zarmsky

For Global Arbitration Review, **Diora Ziyaeva**, Kabir Duggal, Kevin Nash, and Preeti Bahgani discussed their participation at Harvard's Arbitration Conference.

Spotlight from our President:

In the August 26, 2024 broadcast (9 a.m. and 9 p.m.) of CWRU School of Law's "Talking Foreign Policy," producer/host **Michael Scharf** (President of the ABILA) has assembled a group of foreign policy experts to discuss "Foreign Policy and the U.S. Presidential Election." Expert guests include former State Department Legal Adviser during the Bush Administration John Bellinger of Arnold and Porter, former State Department Legal Adviser during the Obama Administration Harold Hongju Koh of Yale Law School, retired JAG Colonel Mike Newton of Vanderbilt Law School, President of the Public International Law & Policy Group **Paul Williams**, and Professor **Milena Sterio** of Cleveland State University College of Law (a member of the ABILA Board).

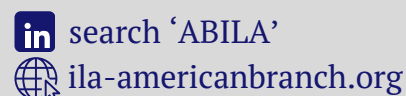


Talking Foreign Policy is broadcast on Cleveland's NPR Station, WKSU 89.7 FM in Cleveland, and its syndicates throughout Ohio. It is streamed worldwide from Ideastream Public Media. It is also available to listen to as a podcast anytime after it [airs on our website](#).

Want your publication or news included in the next newsletter?

Please send your name, email, affiliation, publication/news, and headshot to Freya Doughty-Wagner at media@ila-americanbranch.org.

We are also happy to highlight members' accomplishments on our social media. Follow ABILA at:



News from ABILA Committees

Committee on the International Criminal Court

Committee Chairs: **Patrick Keenan** (Illinois College of Law) and **Jennifer Trahan** (NYU Law)

The Committee on the International Criminal Court, cochaired by Jennifer Trahan and Patrick Keenan, issued a document entitled “On the Application for ICC Arrest Warrants in the ‘Situation in the State of Palestine,’: The U.S. must Uphold International Justice and Respect the Independence of the International Criminal Court.” The document was additionally signed by the Committee’s past Chair, **Leila Sadat**, and the Committee’s Advocacy Director, **Rebecca Shoot**.

Committee on International Environmental and Energy Law

Committee Chairs: **Carolina Arlota** (Columbia Law) and **Myanna Dellinger** (Einstrong Foundation)

The committee proudly sponsored the first ABILA Blog Symposium, working with ABILA’s CCO Freya CCO Freya Doughty-Wagner in this unprecedented initiative. In the selected blog posts, five authors discussed International Law Weekend’s 2024 theme of Powerless Law or Law for the Powerless? From an International Environmental and Energy Law perspective. Two of these blog posts can be found earlier in this *Newsletter* (see pages 13-21).

Committee on International Investment Law

Committee Co-Chairs: **David Attanasio** (Dechert LLP) and **Diora Ziyaeva** (Dentons)

On December 5, 2023, the Committee co-sponsored an event entitled “The Future of International Arbitration and Global Trade.” Hosted by Dechert LLP, the event brought together government officials, policymakers, practitioners, and scholars to debate potential policy changes that could reshape international protection for foreign investment, the relationships between companies and governments, and the structure of the global economy. It included panels on calls for ISDS reform, the Sulu arbitration award, and third-party funding.

Committee on Space Law

Committee Co-Chairs: **Henry R. Hertzfeld** (Elliott School of International Relations, George Washington University) and **Matthew Schaefer** (University of Nebraska College of Law)

The Committee was a co-sponsor for the 16th Annual University of Nebraska Washington, D.C. Space Law Conference. Held on September 29, 2023, the conference included a panel on “Current Dynamics and Looming Challenges in Commercial Space.” It featured panelists Krystal Azelton, Secure World Foundation; Laura Cummings, Astroscale; Ruth Pritchard-Kelly, RPK Advisors; and Committee Co-Chair Matthew Schaefer. The conference included another panel on “Legal Questions about Growing Military Uses of U.S. Commercial Satellites,” which was moderated by Prof. **Jack Beard**, Director of the University of Nebraska Space, Cyber and National Security Law Program, Editor-in-Chief of the Woomera Manual and Chair of the ABILA Use of Force Committee. Peter J. Beshar, General Counsel, U.S. Dept of the Air Force, delivered the keynote address.



Carolina Arlota



Myanna Dellinger



Statement from the International Criminal Court Committee

On the Application for ICC Arrest Warrants in the “Situation in the State of Palestine:”

The United States must uphold international justice and respect the independence of the International Criminal Court

May 28, 2024

Ever since the October 7, 2023, attacks by Hamas and the Israeli response thereto, the conflict in Gaza has roiled the international community and deeply traumatized the people of Israel and Palestine. On May 20, 2024, ICC Prosecutor Karim A.A. Khan, K.C. announced that he was applying for arrest warrants against three Hamas leaders and two Israeli officials relating to the October 7, 2023, attacks and Israel’s response. While most States have welcomed the application, U.S. President Joe Biden has stated that it is “outrageous” to apply for arrest warrants and U.S. Secretary of State Anthony Blinken has suggested he will work with lawmakers on potential sanctions against the ICC’s “profoundly wrong-headed decision.” This response misses the mark and squanders an opportunity to bring about some accountability for victims of the atrocities committed during the conflict.

Palestine acceded to the Rome Statute on January 2, 2015, and on May 22, 2018, referred possible crimes within the ICC’s jurisdiction in Gaza, the West Bank, and East Jerusalem to the ICC Prosecutor. On February 5, 2021, Pre-Trial Chamber I found that the ICC had jurisdiction over “Gaza and the West Bank, including East Jerusalem.” This means that the ICC currently has jurisdiction over anyone who commits genocide, war crimes, or crimes against humanity in those areas and any crimes committed by Palestinian nationals outside those areas.

This Committee, which was founded in 1994, has not only been active in the creation and establishment of the International Criminal Court, but has not hesitated to speak out when the situation has warranted it, to support the Court’s independence.

In recent years the ICC has confronted opposition to the pursuit of justice, by States whose nationals are on the receiving end of ICC arrest warrants or investigations, and particularly from the United States. In response to the ICC’s investigation into alleged war crimes and crimes against humanity by U.S. forces in Afghanistan, members of Congress levied threats against the ICC and its personnel. In 2020, former President Donald Trump actually imposed sanctions against the ICC Prosecutor and a senior member of her staff. A public outcry ensued both in the United States (including by the ABILA ICC Committee, here and here) and abroad. Eventually, the sanctions were the subject of two lawsuits in the United States, one of which granted a temporary restraining order on the grounds that the sanction order was so sweeping in its provisions that its application was in likely violation of the First Amendment.

The sanctions were dropped during the Biden Administration and ultimately backfired; while they undeniably inconvenienced the ICC Prosecutor and interfered with the Court’s activity, the ICC’s staff were undaunted in their work and their reputation was strengthened, not diminished, as they continued to do their jobs despite U.S. pressure.

In 2021, both this Committee and ABILA’s former President spoke out against the sanctions imposed by President Trump and welcomed their rescission by President Joe Biden. When President Biden lifted the sanctions, he noted that “the threat and imposition of financial sanctions against the Court, its personnel, and those who assist it are not an effective or appropriate strategy for addressing” U.S. concerns with the Court.

Statement from the International Criminal Court Committee, Continued

Since that time, the United States has supported the Court, most fervently with respect to the Ukraine investigation and the warrants against Russian President Vladimir Putin and Ms. Maria Lvova-Bulova, as well as Sergei Ivanovich Kobylash, a Lieutenant General in the Russian Armed Forces, and Viktor Nikolayevich Sokolov, an Admiral in the Russian Navy. In the situation of Ukraine, the United States sees the work of the Court as supporting its national self-interest and has, therefore, constructively engaged with the Court.

Congress made it easier for the United States to provide information to the ICC, and the President ordered those in the national security apparatus to fully cooperate with the Prosecutor. These measures recognized Prosecutor Khan's independence and competence and acknowledged that the United States has the ability to play a positive role in international criminal justice even if it is not a State Party to the Rome Statute.

With respect to the Palestine situation, the threat of sanctions clearly has not daunted Prosecutor Khan, who has demonstrated both courage and independence. Prosecutor Khan and his team knew the risk of U.S. opposition and acted anyway, because the job that they accepted was to be independent and impartial in the pursuit of their mandate. As the Independent Panel of Experts that reviewed the evidence underlying the Prosecutor's application recently wrote, there are reasonable grounds to support the allegations of war crimes and crimes against humanity in the proposed arrest warrants. Moreover, as they note, the law being applied is "humanity's law, not the law of any given side," which protects all the victims of this conflict and "all civilians in conflicts to come."

Although the United States now objects to the possibility of ICC investigations in the situation relating to the State of Palestine, international justice is not a "pick and choose" system. The law must be applied impartially to all. The United States should not stand behind the Court when it issues warrants against Russian nationals, and then seek to retaliate against it for pursuing warrants in a situation where a U.S. ally is concerned. Nor is there any "moral equivalence" implied by the Prosecutor's application to the Pre-Trial Chamber to issue warrants for individuals reasonably believed to have committed atrocity crimes. The Prosecutor's decisions are guided solely by the evidence and the law and were themselves unanimously approved by outside experts.

The ABILA ICC Committee strongly urges U.S. President Joe Biden and the U.S. Congress to refrain from attempting to interfere with the ICC's ongoing investigation in the Palestine situation and elsewhere. As General Wesley Clark (Ret.) wrote in his critique of the Trump-era sanctions, "The United States benefits from its leading role in developing and complying with international law and from the institutions that help enforce that law."

The United States must not be seen to be attempting to manipulate the rule of law to benefit itself or its allies. Experience has shown that this is not only wrong-headed, but unproductive. The ICC—an independent, permanent judicial institution with the mandate to pursue only the worst crimes of concern to the international community—must be able to do its work free from interference or political threats.

—ABILA ICC COMMITTEE*

Professor Patrick Keenan, co-chair; **Professor Leila N. Sadat**, past committee chair & past President of ABILA; **Rebecca Shoot**, advocacy director; **Professor Jennifer Trahan**, co-chair & a Vice President of ABILA.

*This media statement reflects the views of the Committee on the International Criminal Court of the American Branch of the International Law Association but does not represent the official position of the American Branch as a whole. The committee consists of approximately one hundred and twenty-eight members. One member was unable to join this statement due to professional obligations.



International Law Weekend 2024 Sponsors

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ILW Sponsorship Opportunities:

We are still accepting sponsors for International Law Weekend 2024. Interested parties may sponsor the entire weekend, a specific panel, keynote, lunch, or networking session. Please send networking inquiries to Julia Liston at membership@ila-americanbranch.org.

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Pay Your Dues

The Branch's membership year begins in January. If you have not yet paid your 2024 membership dues, please do so now. 2023 membership fees were due on January 1, 2024.

To pay your dues, log on to your account at www.ila-americanbranch.org and select the "Orders" tab under your Account page, or contact our CCO Julia Liston at membership@ila-americanbranch.org.

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 now to think about reaching out to several likely prospects, and encourage them to join and attend ILW 2024. To help you in this effort, the ABILA membership brochure can be downloaded from the Branch website under the Membership tab.



Calendar of Upcoming Events

September 5-6, 2024: European Society of International Law Annual Conference 'Technological Change and International Law;' Vilnius, Lithuania

September 15-20, 2024: International Bar Association Annual Conference; Mexico City, Mexico

September 26-27, 2024: ILW-Midwest - The Geneva Conventions at 75: Need for Innovation, Case Western Reserve University School of Law, Cleveland

October 9, 2024: American Society of International Law Gala; New York City Bar Association, New York City

October 17-18, 2024: The London Conference on International Law 2024; QEII Centre, London, England

October 24-26, 2024: International Law Weekend, Fordham University Law School, New York City

November 13-15, 2024: 2024 International Law Section of the American Bar Association's Fall Conference - '100 years of the ABA in the United Kingdom: Tradition, Innovation and Influence;' The Honourable Society of the Middle Temple and The Honourable Society of the Inner Temple, London

November 14-16, 2024: American Society of International Law Mid-Year Meeting, University of Chicago Law School, Chicago

January 22, 2025: National University Singapore Centre for International Law Year in Review 2025 Conference; Orchard Hotel, Singapore

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