ASIL Midyear Meeting
Practitioners' Forum
Research Forum

November 8-10, 2018
Los Angeles, California
ABOUT THE SOCIETY

The American Society of International Law is a nonprofit, nonpartisan, educational membership organization founded in 1906 and chartered by Congress in 1950. The mission of ASIL is to foster the study of international law and to promote the establishment and maintenance of international relations on the basis of law and justice. ASIL holds Special Consultative Status with the Economic and Social Council of the United Nations and is a constituent society of the American Council of Learned Societies.

The Society’s nearly 4,000 members from more than 100 nations include attorneys, academics, corporate counsel, judges, representatives of governments and nongovernmental organizations, international civil servants, students, and others interested in international law. Through our meetings, publications, information services, and outreach programs, ASIL advances international law scholarship and education for international law professionals as well as for broader policy-making audiences and the public.

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2018 ASIL MIDYEAR MEETING

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WELCOME

We are pleased to welcome you to the Ninth Midyear Meeting of the American Society of International Law. This annual event is held in different cities and regions with the goal of strengthening the Society’s connections with international practitioners, scholars, and law students around the United States and from 16 other countries. We are delighted to return to Los Angeles, the home of the Society’s first Research Forum (and its second Midyear Meeting) in 2011, and want to thank our hosts for their warm welcome and support.

The Midyear Meeting will begin with the Practitioners’ Forum on Thursday afternoon. The theme, “Regulation of the Internet in the Transnational Arena,” will address a range of timely issues, including state censorship, hate speech and disinformation, and freedom of information. The program will include keynote remarks by Göran Marby, CEO and President of ICANN, followed by a distinguished panel that will explore many of these issues.

On Friday and Saturday, the Research Forum will continue the tradition of featuring works-in-progress by over 70 authors, including students, new professionals, and seasoned from academia, practice, government, and international organizations. The topics cover nearly every area of international law, from investment arbitration to the rights of indigenous peoples to cyberspace.

The panels are designed to bring out common themes among the papers, with each session led by an expert discussant. The Research Forum will also feature a pair of plenary lunchtime discussions addressing “Current Developments in International Trade” (Friday) and “The Role of the U.N. Special Rapporteur” (Saturday).

The Midyear Meeting also offers law students and new attorneys valuable networking and professional development opportunities as they consider careers in international law, including several practical training sessions, a “speed mentoring” event, and multiple receptions.
This Research Forum also will include a very special occasion: a Convocation to celebrate the launch of the David D. Caron Fund. The Fund has been established to honor the life and achievements of David D. Caron, a much-admired leader of the Society who developed the concept of the Research Forum during his presidency. The primary purpose of the Fund is to enhance and sustain the Research Forum, including through two new named activities: The David D. Caron Prize, for the best paper presented at the Research Forum by a current student or recent graduate; and the David D. Caron Fellowships, which will provide financial assistance to students or recent graduates selected to present a paper at the Research Forum. The Convocation will include the announcement of the winner of the inaugural David D. Caron Prize.

We would like to express our thanks to all of our presenters and discussants, as well as to the Research Forum committee, chaired by Kal Raustiala, Victoria Shannon Sahani, and Jarrod Wong.

We extend our special thanks to our Midyear Meeting hosts: UCLA School of Law and Gibson Dunn & Crutcher LLP. We particularly wish to express our appreciation to Dean Jennifer Mnookin of UCLA School of Law and the faculty and staff of the International and Comparative Law Program, and Asli Bâli, faculty director of the Promise Institute for Human Rights, for their gracious hospitality in hosting and cosponsoring the Research Forum; and to Perlette Michèle Jura and Rahim Moloo of Gibson Dunn & Crutcher LLP, for hosting and underwriting the Practitioners’ Forum.

Finally, we thank deputy executive director D. Wes Rist and all of the members of the Society’s professional staff who have devoted many months of effort to planning this event.

It’s good to have you with us. We wish you a productive and enjoyable meeting.

Sean D. Murphy
President

Mark D. Agrast
Executive Director
2018 ASIL MIDYEAR MEETING
HOSTS AND SPONSORS

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2019 Arthur Helton Fellowships
Applications Open

Established in 2004, the Arthur C. Helton Fellowship Program recognizes the legacy of Arthur Helton, a prominent human rights advocate and ASIL member. Helton died in the August 19, 2003 bombing of the UN mission in Baghdad together with UN High Commissioner for Human Rights Sergio Viera de Mello and 20 others.

Funded through the generous support of ASIL members, interest groups, and private foundations, Helton Fellowships provide financial assistance in the form of “micro-grants” of $2,000 for law students and new professionals to pursue field work and research on significant issues involving international law, human rights, humanitarian affairs, and related areas.

Helton Fellowships are intended to provide modest funding that can make the difference in enabling future international lawyers, scholars, and advocates to pursue a life-changing professional experience.

Applications for the 2019 class of Helton Fellows are open until Monday, January 28, 2019.

Find out more about the next round of Helton Fellowship applications online at www.asil.org/helton.
2018 Midyear Meeting
Research Forum Committee

Co-Chairs

Kal Raustiala
UCLA School of Law

Victoria Shannon Sahani
Arizona State University College of Law

Jarrod Wong
University of the Pacific McGeorge School of Law

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Georgetown University Law Center

Janie Chuang
American University Washington College of Law

Mark Drumbl
Washington and Lee University School of Law

Karen Knop
University of Toronto Faculty of Law

Catherine Powell
Fordham Law School
GENERAL INFORMATION

REGISTRATION

The Research Forum Registration Desk will be located at the Lincoln Alcove, in the Foyer on the first floor of UCLA School of Law

Registration Hours

Friday, November 9 11:00 a.m. – 4:00 p.m.
Saturday, November 10 8:00 a.m. – 4:00 p.m.

Name badges must be worn for admittance to all meetings, sessions, receptions, and lunches.

ASIL SOCIAL MEDIA

Follow ASIL on Twitter and Instagram (@asilorg) and tweet about the Midyear Meeting using the hashtag #ASILMYM.
SPEAKERS AND DISCUSSANTS

Alejandro Abad Alvarez-Querol
Elizabeth Acorn
Patrick Agejo
Gilda Almeida
Karen Alter
Diane Marie Amann
Serena Anand
Asli Bâli
Angela Báli
Kristen Barnes
Perry Bechky
Ayalet Berman
Noah Bialos
Faye Bird
Marco Bocchese
William Burke-White
Andrea Caracano
Leon Castellanos-Jankiewicz
Claudia Maria Castro Valle
Kathleen Claussen
Antonio Coco
Wanshu Cong
Jorge Contesse
Taylor Dalton
Lori F. Damrosch
Jeff Dasteel
Caroline Davidson
Mark Drumbl
MJ Durkee
Kristen Eichensehr
Antonia Eliason
Nnaemeka Ezeani
Aaron Felmuth
Simin Gao
James Gathii
Hannah Garry
Frank Gevurtz
Yannick Gill
David Glazier
Kevin Gray
Rebecca Hamilton
J. Benton Heath
Jessie Hohmann
David Hughes
Jennifer Ismat
Vyoma Jha
Cree Jones
Vera Korzun
Philipp Kotlaba
Jean Krasno
Patryck Labuda
Seo Hee Lee
Pranay Lekhi
Janet Leon
Alexander Leventhal
Yang Liu
Melissa Loja
Ofilio Mayorga
Aisling McMahon
Saira Mohamed
Marion Mompontet
Will Moon
Sean D. Murphy
Stephen Nelson
Dwight Newman
Brid Ni Ghrainne
Ibironke Odumoso-Ayanu
Sean Pager
Kish Parella
Jacqueline Peel
Paula Pera
Shruti Rana
Weijia Rao
Jose Maria Reis
Marco Rigau
Elizabeth Rodríguez-Santiago
Wayne Sandholtz
Michael Sant’Ambrogio
Gregory Shaffer
Katherine Schroeder
Yahli Shereshevsky
David Sloss
Richard Steinberg
David Stewart
Peter Stockburger
Elisabeth Szeli
Sabrina Trembley-Huet
Elizabeth Trujillo
Pei-Lun Tsai
Tanishtha Vaid
Michael Viteritto
Alex Wang
Heng Wang
Timothy Webster
Ralph Wilde
Jane Willems
Adrien Wing
William Worster
Alex Zhang
Regulation of the Internet in the Transnational Arena

As information technology has permeated global society, so too has the ability and desire of national governments to use and regulate flows of information, especially across the internet. Governments have become adept at using social media to reshape narratives about their political opponents, to skew national perceptions of global issues, and to promote disinformation on government actions. At the same time, social media platforms, the news media, academics, technology companies, and general users are facing governmental efforts in multiple jurisdictions to restrict posting of and access to information. This practitioner’s forum will feature keynote remarks by the CEO of ICANN and a discussion with a panel experts from private practice, the corporate world, and academia who will engage these complex issues.

6:00-7:30 Practitioners’ Forum panel & discussion

Keynote: Göran Marby,
CEO and President, Internet Corporation for Assigned Names and Numbers (ICANN)

Panelists: Tricia Cross, 21st Century Fox
Kristen Eichensehr, UCLA School of Law
Vivek Krishnamurthy, Foley Hoag, LLP
Kal Raustiala (moderator), UCLA School of Law

7:30-8:15 Practitioner’s Forum Reception
Sponsored by Gibson, Dunn, & Crutcher LLP
Friday, November 9, 2018

UCLA School of Law

Leadership Meetings

9:00 a.m. – 11:00 a.m.  American Journal of International Law
Board of Editors Meeting (Faculty Library)

9:00 a.m. – 12:30 p.m.  Executive Council Meeting (Room 1314)

Student and New Professional Development Programs

9:30 a.m. – 11:00 a.m.  Pursuing a Career in International Law
(Room 1347)

11:00 a.m. – 12:30 p.m.  International Legal Research Methods
(Room 1347)

Plenary Luncheon

12:45 – 2:00 p.m.  Current Developments in International Trade
(Room 1347) (Lunch provided, badge required)

- Kathleen Claussen, University of Miami School of Law;
- Melida Hodgson, Foley Hoag LLP;
- Jarrod Wong (moderator), University of the Pacific McGeorge
  School of Law; and
- Richard Steinberg, UCLA School of Law.

Research Forum

2:15 – 3:15 p.m.  Research Forum Session I

International Economic Law (Room 1430)

- Ruling the Global Economy: Why is money so different from trade?;
  Karen J. Alter and Stephen C. Nelson, Northwestern University
- Boilerplate Treaties; Kathleen Claussen, University of Miami School
  of Law
- Discussant: Gregory Shaffer, UC Irvine School of Law
Reconceptualizing Post-World War II Experiences with International Law (Room 1420)
- *Glimpses of Women at the Tokyo Tribunal*, Diane Marie Amann, University of Georgia School of Law
- *Disaggregating Corporate Liability: Japanese multinational enterprises and World War II*; Timothy Webster, Case Western Reserve University School
- **Discussant**: Mark Drumbl, Washington & Lee School of Law

Morality and International Law (Room 1447)
- *Emerging Biotechnologies, Morality and Overlapping Supranational Frameworks in the ‘European Patent System’: Too many cooks?*; Aisling McMahon, Durham Law School
- *Living Cultural Property: A discussion of animals as cultural property and the issues that face traditional views*; Michael Viteritto, Sotheby's Institute of Art
- **Discussant**: Asli Bâli, UCLA School of Law

Competition Law and Agencies (Room 1457)
- *Enforcing Global Justice Administratively*; Sean Pager and Michael Sant'Ambrogio, Michigan State University
- *International Mergers and Antitrust Law: The Need for Formal Cooperation between Competition Agencies for a Consistent Merger Review Process*; Paula Pera Czollak, University of Washington School of Law
- **Discussant**: Frank Gevurtz, Pacific University McGeorge School of Law

3:15 – 3:30 p.m. **Coffee Break**

3:30 – 5:30 p.m. **International Law Speed Mentoring event**
(Room 1314)
3:30 – 5:30 p.m. **Research Forum Session II**

**Human Rights Violations and Domestic Law (Room 1430)**
- **Settling Human Rights Violations;** Jorge Contesse, Rutgers Law School
- **Nunca Mas Meets #NiUnaMenos- The Long Path to Addressing Sexual Violence under Pinochet;** Caroline Davidson, Willamette University College of Law
- **Subsidiarity Reversed: The Primacy of International Human Rights Review in Extraterritorial Situations;** Ralph Wilde, University College London Faculty of Laws
- **Discussant:** Kish Parella, Washington & Lee School of Law

**Domestic Systems & International Law (Room 1420)**
- **Accountability in Transnational Business: The Promise and Limits of Corporate Criminal Liability under National Law;** Elizabeth Acorn, Yale University
- **The Identification of Customary International Law: Institutional and Methodological Pluralism;** Noah Bialos, Stanford University
- **Cities in International Law: The new landscape of global governance,** by William Burke-White and Katherine Schroeder, University of Pennsylvania Law School
- **Delaware's New Competition: Nation States as Laboratories of Transnational Corporate Law;** William J. Moon, University of Maryland School of Law
- **Discussant:** David Stewart, Georgetown University Law Center

**Evaluating International Courts (Room 1447)**
- **Governing the International Criminal Court through Performance Indicators? Reflections on a Recent Endeavour by the Assembly of States Parties to the Rome Statute;** Andrea Carcano, University of Milano-Bicocca
- **International Courts as Coordination Devices for Opposition Parties: The Case of the East African Court of Justice;** James Gathii, Loyola University Chicago School of Law
- **Defining “Ethnic Cleansing” as Genocide in International Law: Regime Complex & Network Analysis;** Yang Liu, UCLA Law School
- **International Business Courts: A New Era for Dispute Resolution?;** Jane Willems, Tsinghua University School of Law
- **Discussant:** Richard Steinberg, UCLA School of Law
Reconceptions of Rights in International Law (Room 1457)
- **A Case for the Protection of Space Tourists: Reimagining the vacuum in space**; Pranay Lekhi, West Bengal National University of Juridical Sciences and Tanishtha Vaid, Gujarat National Law University, Gandhinagar
- **Criminal Punishment as a Human Right?**; Saira Mohamed, UC Berkeley School of Law
- **Universal Human Rights and Constitutional Change**; Wayne Sandholtz, University of Southern California and David Sloss, Santa Clara University
- **Political Economy and Consumer Law: An Interdisciplinary Exploration of the Right to Tourism**; Sabrina Tremblay-Huet, University of Sherbrooke
- **Discussant**: Angela Banks, Arizona State University School of Law

5:45 – 6:15 p.m. **Convocation to Celebrate the Launch of the David D. Caron Fund**

**Including presentation of the first annual David D. Caron Prize for the best paper presented at the Research Forum by a current student or recent graduate**

(Room 1347)

6:15 – 7:45 p.m. **Welcome Reception** (Shapiro Courtyard)

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Co-sponsored by the UCLA School of Law International and Comparative Law Program and the Promise Institute for Human Rights
Saturday, November 10, 2017

8:00 – 8:30 a.m. Coffee Break

8:30 – 10:00 a.m. Research Forum Session III

**Armed Conflict and International Law (Room 1430)**
- *Does the Practice of Humanitarian Intervention Possess the Status of Custom of International Law in the Light of the Kosovo Conflict?*; Alejandro Abad Alvarez-Querol, Florida International University
- *Something is not Always Better than Nothing*; David Hughes and Yahli Shereshevsky, University of Michigan Law School
- *Safe Zones as Humanitarian Intervention*; Brid Ni Ghrainne, Judicial Studies Institute, Masaryk University
- **Discussant:** David Glazier, Loyola Law School of Los Angeles

**The Economics of Climate Change (Room 1420)**
- *The Basis of a Uniform Private International Law System in Central America Designed for Cross-Border Environmental Tort Mass Litigation*; Claudia María Castro Valle, Universidad Tecnológica Centroamericana
- *Thwarting Disaster Capitalism: Cancelling debt in the wake of climate change events*; Antonia Eliason, University of Mississippi, and Marco Rigau, independent scholar
- **Discussant:** Jacqueline Peel, Melbourne Law School

**Indigenous Peoples (Room 1447)**
- *Negotiated Gaps and the Non-Definition of Indigenous Peoples in UNDRIP*; Dwight Newman, University of Saskatchewan College of Law, Nnaemeka Ezeani, University of Saskatchewan College of Law
- *Extractive Industry Agreements in International Law*; Ibironke Odumosu-Ayanu, University of Saskatchewan
- **Discussant:** Kristen Barnes, University of Akron School of Law
Jurisdiction, Procedure and Transparency (Room 1457)
- **When Procedure Meets Sovereignty: Demystifying an ICSID tribunal’s powers to order provisional measures in restraint of a state’s exercise of its police powers;** Alexander Leventhal, Quinn Emanuel Uruquhart & Sullivan LLP
- **Opening Up International Adjudication: Mapping Procedural Transparency in International Disputes;** Jose Maria Reis, University of Hamburg
- **Online Access to Administrative Information in China;** Alex Zhang, Stanford University Law School
- **Discussant:** Jeff Dasteel, UCLA School of Law

10:00 – 10:15 a.m. **Coffee Break**

10:15 – 11:45 p.m. **Research Forum Session IV**

**Corporations in International Law (Room 1430)**
- **The New Functional Sovereignty: Private Authority in Global Governance,** by Melissa J. Durkee, University of Georgia School of Law
- **The Network of Global Corporate Investors: Who are the claimants?;** Vera Korzun, University of Akron School of Law
- **Compliance as a Bargain,** by Kish Parella, Washington & Lee School of Law
- **Discussant:** James Gathii, Loyola University Chicago Law School

**Cyberspace (Room 1420)**
- **State Cyber Surveillance and the Elimination of the Human Rights Encounter;** Wanshu Cong, McGill University Faculty of Law
- **Digital Switzerland;** Kristen Eichensehr, UCLA School of Law
- **Control and Capabilities Test: How States Are Adopting a New Model for Attribution in Cyberspace;** Peter Stockburger, Dentons US LLP
- **Discussant:** To Be Confirmed
International Environmental Law (Room 1447)
- Transnational Climate Change Litigation: The contribution of the Global South; Jacqueline Peel, Melbourne Law School, and Jolene Lin, National University of Singapore
- The Legal Protection of Marine Biodiversity in Areas Beyond National Jurisdiction: Where do we stand?; Elizabeth Rodriguez-Santiago, Jesús T. Piñero Center for Social Research
- Climate Change and the Limitations of Refugee Law: Can international human rights law address the protection gap of climate migrants?; Pei-Lun Tsai, National Taiwan Ocean University
- Discussant: Alex Wang, UCLA School of Law

Treaties (Room 1457)
- Investment Treaties and National Governance; N. Jansen Calamita and Ayelet Berman, National University of Singapore
- A Unique and Innovative Process: Analyzing the Creation of the Treaty on the Prohibition of Nuclear Weapons; Jean Krasno, City College of New York and Elisabeth Szeli, United Nations
- Discussant: Lori Damrosch, Columbia Law School

Plenary Luncheon
12:00 – 1:30 p.m. The Role of the U.N. Special Rapporteur
(Room 1347) (Lunch provided, badge required)

- E. Tendayi Achiume (chair), Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance;
- Karima Bennoune, Special Rapporteur in the field of cultural rights; and
- Sean D. Murphy, Special Rapporteur on crimes against humanity

Co-sponsored by the UCLA School of Law Promise Institute for Human Rights
1:45 – 3:15 p.m. **Research Forum Session V**

**At Risk Populations** (Room 1430)
- *The European Court of Human Rights, Cross-Border Surrogacy and the Application of the Best Interests of the Child Principle*; Serena Anand, Georgetown University Law Center
- *Where Justice Ends: A Human Rights Analysis of the Venezuelan Sex Workers in Guyana*; Yannick Gill, Howard University School of Law
- *An Overview of the Enforced Disappearances of the Children from 2008 to 2015 in Mexico and Colombia*; Janet Leon, American University Washington College of Law
- **Discussant:** Saira Mohamed, UC Berkeley School of Law

**International Criminal Justice** (Room 1420)
- *El Coco Does Not Frighten Anymore: ICC scrutiny and state cooperation in Colombia*; Marco Bocchese, Northwestern University School of Law
- *Is There Even a Standard of Review at the ICC?*; Kevin Gray, Humber College
- *The Complementarity Turn in International Criminal Justice*; Patryk Labuda, NYU School of Law
- **Discussant:** Hannah Garry, USC Gould School of Law

**International Governance** (Room 1447)
- *Things Fall Apart: The unraveling of international institutions through withdrawal*; Taylor Dalton, University of Southern California
- *Governing the Global Public Square*; Rebecca Hamilton, American University, Washington College of Law
- *The Contribution to Customary International Law by Territories under International Administration*; William Worster, The Hague University of Applied Sciences
- **Discussant:** David Sloss, Santa Clara Law School
International Arbitration (Room 1457)
- Taxpayer Participation in International Tax Arbitration; Gilda Almeida, University of Miami Law School
- Sticky BITs: Provision adaptation and diffusion in the investment treaty network; Cree Jones and Weijia Rao, University of Chicago Law School
- Unmaking of an Arbitration: Guyana v. Venezuela and the Enduring Problem of Nullity; Philipp Kotlaba, Three Crowns LLP
- Discussant: Perry Bechky, Berliner, Corcoran, and Rowe LLP

3:15 – 3:30 p.m. Coffee Break

3:30 – 5:00 p.m. Research Forum Session VI

Individuals under International Law during and after Armed Conflict (Room 1430)
- Precautions to Minimize Civilian Damage in Urban Warfare; Antonio Coco, University of Oxford
- Conforming Guantanamo Detention with International Law; David Glazier, Loyola Law School Los Angeles
- Wars Without Prisoners: Denying quarter in the age of drone warfare; Ofilio Mayorga, Foley Hoag LLP
- Discussant: Rebecca Hamilton, AU Washington College of Law

Gender and International Law (Room 1420)
- Gendering the ISIL Phenomenon: Human Trafficking and the Half-Told Narratives of the UN Security Council; Faye Bird, University of Reading Faculty of Law
- Gendering Sanctions: A smarter sanctions framework; Jennifer Ismat, St. John's University School of Law
- #SheTradesGlobally: Transnational Frameworks involved in the Promotion of a Gender-Positive Trade Environment; Maria Panezi, Centre for International Governance Innovation
- Discussant: Adrien Wing, University of Iowa College of Law
Human Rights Treaties at the National Level (Room 1447)
- Adjudicating Equality: Minorities and the right to education at the supranational level; Kristen Barnes, University of Akron School of Law
- Recent Engagement with International Human Rights Norms by Courts in Southeast Asia: New challenges to human rights theories; Melissa Loja, National University of Singapore
- From Global to Local and Local to Global: Lessons from the domestic implementation of the Women’s Convention; Shruti Rana, Indiana University of Bloomington
- **Discussant:** Tendayi Achiume, UCLA School of Law

International Legal Theory (Room 1457)
- Nationalism, Alienage, and Early International Rights; Leon Castellanos-Jankiewicz, Asser Institute, The Hague
- Provocations for a Material International Law; Jessie Hohmann, Queen Mary, University of London
- An Analysis of the Territorial Expansion and Colonialism in International Law; Seo Hee Lee, Korea University School of Law
- **Discussant:** Sean D. Murphy, George Washington University Law School

5:00 – 6:00 p.m. **Closing Reception**