

2021 Virtual Midyear Meeting

Thursday, November 11, 2021

10:00 – 11:00 a.m.



OPENING PLENARY

The Regulation of Online Speech: Facebook, Artificial Intelligence, and the Future

October marked the one-year anniversary of the operation of the Facebook Oversight Board (FOB), and its work has been closely watched by experts in cyber law, free speech, human rights, and security. At the same time, conversations about the role of artificial intelligence in managing online speech have become more prevalent, as politicians around the world consider regulatory actions towards global online service providers. This panel will examine the role of the FOB, artificial intelligence, and governmental regulation has played in the space for online speech and how recent political and legal developments might be shaping the future of online communication.

Speakers:

- **Anupam Chander** (moderator), Georgetown University Law Center
- **Christie Edwards**, ODIHR OSCE Tolerance and Non-Discrimination Department
- **Mukund Rathi**, Electronic Frontier Foundation
- **Corin Stone**, AU Washington College of Law
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11:00 – 11:15 a.m.

Break

11:15 a.m. – 4:00 p.m.

ASIL Executive Council Meeting

11:15 a.m. – 12:45 p.m.

International Criminal Theory

- *Prosecution as Alienation*, Steve Koh, Boston College Law School
- *Criminal Law in a World of States*, Ryan Liss, University of Western Ontario, Faculty of Law
- *Policing Genocide? Evaluating police brutality against Black Americans under international criminal law*, Udodilim Nnamdi, Columbia Law School
- Discussant: Leila Sadat, Washington University School of Law

Remedies and Enforcement

- *A Sense of Remedy: Emerging practices in international compensation*, Ashley Barnes, University of Toronto Faculty of Law
- *Adjudicating Corruption in International Investment Arbitration: The comparative effects of enforcement on investors and governments*, Rachel Brewster, Duke University Law School
- *China and the Enforcement of Foreign Judgments*, Yanbai Andrea Wang, University of Pennsylvania Carey Law School
- Discussant: Chris Whytock, UC Irvine Law School

Treaties

- *The Ties that (Un)bind: A network analysis of treaty exit*, Taylor Dalton, University of Southern California
- *Treaty Influencers: A computational analysis of treaty-making practice in international investment law*, Runar Lie, Pluricourts, Faculty of Law, University of Oslo
- *A Theory of Boilerplate in International Agreements*, Michael Waibel, University of Vienna
- Discussant: Danae Azaria, University College London Faculty of Laws

Legal Education

- *"Merit" and "Corruption" in the African Higher Education System: Legal and policy reflections and beyond*, Cristiano d'Orsi, University of Johannesburg
- *Academic Lawmaking by States*, David Hughes, University of Ottawa, Faculty of Law and Yahli Shereshevsky, University of Haifa Law School
- *Peace and Conflict Transformation through Clinical Legal Education*, Ngozi Maduafor, Nile University of Nigeria
- Discussant: Adrien Wing, University of Iowa College of Law

Ask-Me-Anything: Dr. Renée Martin-Nagle (60 mins)

Dr. Renée Martin-Nagle, Eckert Seamans LLP

Dr. Renée Martin-Nagle is a globally recognized water expert and scholar whose broad knowledge of environmental laws and policy extends to both domestic and international regimes. Her areas of scholarly work include freshwater, groundwater, unconventional water resources, PFAS, climate change, oceans and biodiversity. She earned a PhD from the University of Strathclyde in 2019, and her doctoral thesis, *Governance of Offshore Freshwater Resources*, was published as a book in 2020. As founder of the consulting company A Ripple Effect LLC, Dr. Martin-Nagle has provided consulting services, produced research and

publications and spoken at international conferences on a variety of environmental, sustainability and freshwater issues. Prior to beginning her focus on freshwater, Dr. Martin-Nagle enjoyed a 25-year career as a senior executive, manager and chief legal officer in the aviation manufacturing sector, the last 20 years as General Counsel of Airbus Americas. The birth of her first grandson in 2007 inspired her to dedicate her professional energies to preserving the planet, and, while working full-time, she earned an LL.M. from George Washington University, graduating in 2010 with highest honors. She "retired" from Airbus in 2011 as Vice-President, General Counsel, Chief Compliance Officer, Head of Environmental Affairs, Board Member and Corporate Secretary and immediately joined the Environmental Law Institute as a pro bono Visiting Scholar. Dr. Martin-Nagle currently holds a number of affiliations: Treasurer of the International Water Resources Association; President and CEO of A Ripple Effect LLC; Special Counsel at Eckert Seamans Cherin & Mellott LLC; Visiting Scholar at the Environmental Law Institute; Affiliate of the International Water Law Academy at Wuhan University; Member of the Water Innovation Accelerator Well; Secretary and chair of the Governance Committee of the Mount Aloysius College Board of Trustees, and Member of the Municipal (water) Authority of Ebensburg PA.

12:45 – 1:15 p.m.

Break

1:15 p.m. – 2:45 p.m.

Selected Issues in Private Law

- *Implications of the Selection of Islamic Law in European Union Contract Law*, Grace Brody, University of Michigan Law School
- *Assessing the Strategic Situation Underlying International Antitrust Cooperation*, Weimin Shen, Washington University School of Law
- *Contracting Around Treaties*, Aaron Simowitz, Willamette University College of Law
- Discussant: J. Benton Heath, Temple University Beasley School of Law

Governing Migration and Asylum

- *Law and Order at the Border*, Evan Criddle, William & Mary Law School
- *Bottom-Up Transnational Lawmaking: A social network analysis of transnational legal process in United States asylum law*, Regina Jeffries, University of New South Wales
- *Secrecy and Non-Bindingness in Regulation of Labor Migration*, Tamar Megiddo, College of Law & Business
- Discussant: Ian Kysel, Cornell Law School

Technology & Evidence in War

- *War Crimes, Killer Robots, & Software 2.0: Preparing international law & accountability frameworks for the next generation of machine learning*, Brian L. Cox, Cornell Law School
- *The Effects of Visual Evidence on the Application of International Humanitarian Law: A Behavioural Approach*, Shiri Krebs, Deakin University

- *Hybrid Warfare and International Law*, Ivana Stradner, American Enterprise Institute
- Discussant: Jonathan Horowitz, International Committee of the Red Cross

Mentoring Session: Dr. Isavella Vasilogeorgi (60 mins)

Dr. Isavella Vasilogeorgi, Legal Officer, Administrative Law Division, OHR/DMSPC, United Nations

Dr. Isavella Maria Vasilogeorgi is a Legal Officer working for the Secretariat of the United Nations in New York. She holds a Doctorate and an LL.M. in Air & Space Law from McGill University, Canada, as well as an LL.M. in Public International Law from the University of Athens, Greece, where she also obtained her law degree. She is admitted to practice before the Appellate Courts of Greece as a member of the Athens Bar Association. Before joining the international civil service in 2017, Dr. Vasilogeorgi was a Jean-Monet Module instructor at the University of the Aegean in Greece, and an invited lecturer in different universities in Greece, Canada and the United States. She was the inaugural recipient of the International Aviation Women's Association Scholarship at the International Civil Aviation Organization, a specialized agency of the United Nations. She had also served as legal adviser/researcher for the Permanent Representation of Greece to ICAO.

2:45 – 3:00 p.m.

Break

3:00 p.m. – 4:30 p.m.

Interdisciplinary Approaches to International Legal Theory

- *Rules and Standards in International Law*, Pierre-Hugues Verdier, University of Virginia School of Law
- *International Law as Hedging*, Trang (Mae) Nguyen, Temple University Beasley School of Law
- *Latin American International Law and the American Century*, Sergio Puig and Alejandro Chehtman, University of Arizona and Universidad Torcuato Di Tella
- Discussant: Steve Ratner, University of Michigan School of Law

Rights and Obligations in New Spaces

- *Food Sovereignty and the Right to Food: from Opposition to Interrelation*, Victoria Adelmant, Center for Human Rights and Global Justice, NYU School of Law
- *Why Conflict Between Economic Development and International Social Rights Governance Is Inevitable*, Desiree LeClercq, Cornell University
- *Limits to the Doctrine of Separate Human Rights Obligations of Territorial Non-State Actors*, Julia Miklasova, University of Cologne
- Discussant: Michael Fakhri, University of Oregon School of Law

The Response to Atrocity Crimes

- *Statelessness and Mass Atrocities: Why the Right to Nationality Matters for Atrocity Prevention*, Katherine Southwick, United States Holocaust Memorial Museum
- *Caste Based Atrocities as Violation of International Human Rights in View of Indian Diaspora and its Subsequent Penalization*, Vijayalaxmi Khopade, Practising lawyer/advocate
- Discussant: David J. Scheffer, Northwestern University School of Law

The Evolution of Economic Agreements

- *In the Name of Energy Sovereignty*, Guillermo Garcia Sanchez, Associate Professor at Texas A&M University School of Law
- *Stable BITs*, Cree Jones, School and Brigham Young University Law School and Weijia Rao, George Mason University Antonin Scalia Law
- *Investors as International Law Intermediaries*, Kish Parella, Associate Professor with the Washington and Lee School of Law
- Discussant: Adam Chilton, University of Chicago School of Law

Pursuing a Career in International Law: Ben Juvelier (60 mins)

Ben Juvelier, American Society of International Law

The market for legal jobs is difficult right now and specializing in a particular issue, like international law, can make your job search even more frustrating. This session will discuss the steps that students and graduates can take while still in law school or in their early career to help themselves stand out in the search for an international law position. Topics covered will include targeted job searching, managing one's professional contacts, identifying appropriate international experiences, pursuing valuable volunteer and professional membership opportunities, and other practical issues that students can pursue.

4:30 – 4:45 p.m.

Break

4:45 p.m. – 6:15 p.m.

US Domestic Implementation of International Law

- *The Doctrine of Sovereign Distinction: Making Sense of Foreign Corporations and Foreign States in U.S. Courts*, Haley Anderson, University of California, Berkeley
- *Necessary But Not Sufficient: How gender equity protections under the U.S. ERA fall short of those under CEDAW*, Mary Hansel, University of California, Irvine School of Law
- Discussant: John Coyle, University of North Carolina School of Law

Climate Change

- *Climate Displacement: Revisions to the international legal framework to address refugees resulting from future climate crises*, Christian Jorgensen and Eric Schmitz, American Red Cross
- *A Parisian Consensus*, Frederic Sourgens, Washburn University School of Law

- Discussant: MJ Durkee, University of Georgia School of Law

Reimagining International Law

- *Reimagining International Law's Environment: An ecological critique of international food law and international disaster law*, Ashleigh Best, University of Melbourne and Ayse Didem Sezgin, King's College London
- *Redesigning Slavery Through Law: A play in four acts*, Marija Jovanovic, University of Essex
- Discussant: Noah B. Novogrodsky, University of Wyoming College of Law

International Criminal Court

- *The Use of African Law at the International Criminal Court*, Stewart Manley, University of Malaya
- *From Hadžihasanović to Bemba and Beyond: Revisiting the application of command responsibility to armed groups*, Joshua Niyo, The Graduate Institute of International and Development Studies, Geneva
- *Dominic Ongwen: Sentencing and mitigation at the ICC*, Milena Sterio, Cleveland-Marshall College of Law
- Discussant: Diane Marie Amann, University of Georgia School of Law

Ask-Me-Anything: Sean D. Murphy (60 mins)

Sean D. Murphy, George Washington University Law School

Sean D. Murphy is the Manatt/Ahn Professor of International Law at George Washington University in Washington, D.C. Since 2012, he has been a Member of the U.N. International Law Commission, which appointed him as Special Rapporteur for Crimes against Humanity. From 1987 to 1998, he served in the U.S. Department of State Office of the Legal Adviser working *inter alia* on matters relating to international humanitarian law, the law of the sea, and international dispute settlement. A former President of the American Society of International Law, Professor Murphy has served as counsel, arbitrator or *ad hoc* judge, including at the International Court of Justice, the International Tribunal for the Law of the Sea, the Permanent Court of Arbitration, ICSID and the International Criminal Court.

6:15 – 6:30 p.m.

Break

6:30 – 7:30 p.m.



2021 PRACTITIONERS' FORUM

Democratizing International Law Practice – Leveling the Playing Field?

A Conversation from the Year 2031

The global legal community has seen rapid change in the practice of international law over the past few decades. Technology and globalization arguably have contributed to easier, more efficient, and more economical representation of clients by firms, at least for those with access to technology. At the same time, a greater awareness of the impact of discrimination and implicit bias, the importance of diversity, equity, and inclusion and gender equality, and the need for positive environmental impact has led many in the industry to self-reflect and agitate for change. Newer investment treaties and multi-lateral agreements are reflecting these principles in their text, while increased access to capital through third-party funding has allowed the leveling of economic barriers and greater access to claimants seeking relief against States engaged in excessive exercises of sovereignty that infringes on medium to modest investments. The global pandemic of 2020-2021 accelerated these changes, making practitioners, clients, and tribunals use and rely on existing technologies while forcing us all to challenge untested assumptions and orthodoxy with regard to how we conduct our practice, even as it further exposed inequalities across the globe and within our national communities. The 2021 Practitioners' Forum of the Society's Midyear Meeting will feature a roundtable of experts set in the year 2031 and looking back over the last decade of international legal practice to speculate on the possible changes that have occurred, including

- Have we witnessed a democratization of the practice of international investment law?
- Have we seen more and better opportunities for a more diverse, and more visible, college of international lawyers?
- If so, what had to be done to get there?
- Have the gains been shared equally?
- What barriers remain to more equitable opportunities, and how can they be overcome?
- What might international lawyers have done better over the past decade to better facilitate the democratization of practice?

Speakers:

- **Chiann Bao**, Arbitration Chambers

- **Leidylin Contreras**, Directorate of Foreign Trade, Dominican Republic
- **Mélida Hodgson**, Jenner & Block LLP
- **Catherine Rogers** (moderator), Bocconi University
- **Emily Slater**, Burford Capital

Friday, November 12, 2021

10:00 – 11:30 a.m.

Regional Histories and Rights

- *Prosecuting Crimes Against Cultural Heritage in Syria and Northern Iraq*, Francesca Sironi de Gregorio, University of Palermo
- *Reconceptualizing cultural rights using Asian voices and vocabularies*, Raghavi Viswanath, European University Institute
- *The Taiwanese Roots of Asia's War Reparations Movement*, Timothy Webster, Western New England University
- Discussant: Tara Melish, University at Buffalo School of Law

Global Health Governance

- *The New Global Health Governance: for an international health emergency early warning system*, Sandro Schmitz dos Santos, Austral Consulting & Investments/ International Law Association Brazilian Section
- *Standards of Scientific Evidence in International Agreements: The case of the WHO International Health Regulations*, Margherita Melillo, O'Neill Institute for National and Global Health Law
- *Can International Law Ensure the Survival of Humanity? The case for germline genome editing in humans*, Natalie Ochoa, Universidad Camilo Jose Cela, Madrid
- Discussant: Matiangai Sirleaf, University of Maryland School of Law

Law of War and the Use of Force

- *Frontline Humanitarian Negotiators as Decision-Makers under International Law: Some Experimental Findings*, Anne van Aaken, University of Hamburg and Tomer Broude, Hebrew University of Jerusalem
- *The Construction of Liability: How civilian involvement in war affects their victimization*, Janina Dill, Mara Revkin, Bob Underwood, Georgetown University Law Center
- *The Human-machine Interaction Standard for Weapon Systems with Autonomous Functions*, Clea Strydom, University of Johannesburg
- *War and Words: The International Use of Force in the United Nations Charter Era*, Lauren Sukin, Stanford University Department of Political Science Department and Allen Weiner, Stanford Law School
- Discussant: Erika de Wet, University of Graz Faculty of Law

Investor-State Dispute Settlement

- *Rebalancing International Investment Law*, Vera Korzun, University of Akron School of Law
- *An Investment Theory of International Investment Law*, Stratos Pahi, Wake Forest University School of Law
- *The 'Externalities' of Joint Interpretations in Investment Arbitration: Learning from the Past*, Chen Yu, National University of Singapore
- Discussant: Andrea Bjorklund, McGill University Faculty of Law

Mentoring Session: Kristin Smith (60 mins)

Kristin Smith, American Bar Association

Kristin Smith directs the Atrocity Crimes Initiative, jointly supported by the American Bar Association's Criminal Justice Section and Center for Human Rights, which works through various projects to articulate standards and best practices in international criminal justice, strengthen the International Criminal Court and US support for international justice institutions, advance the legal framework on crimes against humanity, and to further research, public debate, and support for atrocity prevention laws and policies. She has written gender-sensitive analyses of reparations and the domestic legal framework in Iraq, contributed to a comprehensive gender analysis of atrocity crimes committed against the Rohingya in Myanmar, and submitted technical comments to various international bodies such as the Review of the International Criminal Court. Prior to the ABA, she worked on issues of gender equality, reproductive rights and justice for sexual and gender-based crimes as a Legal Fellow at the Global Justice Center in New York, and supported the Whitney R. Harris World Law Institute's international research and educational initiatives as a Fellow (including the Crimes Against Humanity Initiative). She is a graduate of the University of Notre Dame and Washington University in St. Louis School of Law.

11:30 – 11:45 a.m.

Break

11:45 a.m. – 1:15 p.m.

Global Trade Law and Policy

- *The Legalization of Global Economic Governance: Contracting or multilateralism?*, Karen Alter, Northwestern University and Tim Meyer, Vanderbilt University Law School
- *The Elastic Corporate Form in International Law*, Julian Arato, Brooklyn Law School
- *Readdressing the Consequences of the Institutional Estrangement between International Trade and Human Rights*, Ana Chuc-Gamboa, Queen's University Ontario Faculty of Law
- Discussant: James Gathii, Loyola University Chicago School of Law

Defining Our Terms: International legal theory

- *Images & Realities of the Host State in International Law (submitted as: Images of the Host and Host State in International Law)*, Kristen Boon, Seton Hall Law School
- *A Cartesian Law of Nations*, Sungjoon Cho, Chicago-Kent College of Law

- *The Performance of Theory in the Practice of International Law*, William Byrne, University of Copenhagen
- Discussant: Florian Hoffman, Pontificia Universidade Catolica do Rio de Janeiro

Transnational Digital Governance

- *Cross-border Data Flows in Global Trade and Privacy Law: The different speeds of legal adaptation*, Mira Burri, University of Lucerne
- *Techno-Nationalism and International Law*, Georgios Dimitropolous, Hamad Bin Khalifa University College of Law
- *A Battle of Big Three: Competing conceptualizations of personal data shaping transnational data governance*, Raymond Gao, Australian National University
- Discussant: Anupam Chander, Georgetown University Law Center

Indigenous Peoples as Actors in International Law

- *Help or Hindrance? The dynamics of deference in international courts and indigenous rights*, Shea Esterling, University of Canterbury
- *Original Nation Approaches to International Law: The rights of indigenous people and nature in the age of anthropocene*, Hiroshi Fukurai, University of California, Santa Cruz
- *Present and Future International Arctic Law*, Stefan Kirchner, University of Lapland
- Discussant: Brenda Gunn, University of Manitoba Faculty of Law

Ask-Me-Anything: M. Arsalan Suleman (60 mins)

M. Arsalan Suleman, Foley Hoag LLP

Arsalan Suleman is Counsel in Foley Hoag's International Litigation and Arbitration practice in Washington, DC. His practice focuses on representing sovereign States in international disputes, including before the International Court of Justice, the International Tribunal for the Law of the Sea, UN treaty bodies, and U.S. courts. From 2015-2017, Arsalan served as the Acting U.S. Special Envoy to the Organization of Islamic Cooperation (OIC) at the U.S. Department of State. He also served as Counselor for Multilateral Affairs in the Bureau of Democracy, Human Rights, and Labor from 2011-2015, and as the Deputy Envoy to the OIC from 2010-2015. Arsalan is also the board chair of America Indivisible, a non-partisan, non-profit coalition effort to address bigotry against members of Muslim communities and those who appear to be Muslim from Black, Arab, Sikh, and South Asian American communities. He is an Advisory Board member of Georgetown University's Institute for the Study of Diplomacy. Arsalan is a graduate of Harvard Law School (J.D. '07), Trinity College Dublin (M.Phil '04), and Georgetown University (B.S.F.S. '03). He clerked for the late Judge Miriam Goldman Cedarbaum (SDNY).

1:15 – 1:30 p.m.

Break

1:30 – 2:30 p.m.



LUNCH PLENARY

The Role of the Academic in Government

Speakers:

- **Oona Hathaway**, Yale Law School
- **Darin Johnson** (moderator), Howard University School of Law
- **Chimène Keitner**, UC Hastings Law School
- **Mark Wu**, Harvard Law School

2:30 – 2:45 p.m.

Break

2:45 p.m. – 4:15 p.m.

The Tools and Theories of Cyber-crimes

- *Platform-Enabled Crimes*, Rebecca Hamilton, American University, Washington College of Law
- *Applying Lessons from the Law of Piracy to the Problem of Botnets*, Ryan Migeed, George Washington University Law School
- Discussant: Kristen Eichensehr, University of Virginia School of Law

Courts and Tribunals

- *Judicialization and Public Support for Compliance with International Commitments*, Harlan Cohen, University of Georgia School of Law and Ryan Powers, University of Georgia School of Public and International Affairs
- *Does the Court Really Know the Law? The jura novit curia principle in fragmented international adjudication*, Barbara Bazanth, New York University School of Law
- *The Habre Effect? How An African Trial Shaped Justice Norms*, Margaret deGuzman, Temple University Beasley School of Law
- Discussant: Mark Pollack, Temple University Beasley School of Law

New Approaches to Justice and Human Rights Practice

- *Philanthropic Justice: The Role of Private Foundations in Transitional Justice Processes*, Julia Emtseva, Max Planck Institute for Comparative Public Law and International Law
- *Decolonizing International Human Rights Practice*, Laurel Fletcher, UC Berkeley
- *The Refugee in Human Rights Law*, Moria Paz, Stanford Law School
- Discussant: Elena Baylis, University of Pittsburgh School of Law

Mentoring Session, Sarah Lee (60 mins)

Sarah Lee, Debevoise & Plimpton LLP

Sarah Lee is a member of the firm's International Dispute Resolution Group at Debevoise & Plimpton in New York. Her practice focuses on public international law and international arbitration. Ms. Lee regularly represents and advises corporations and sovereign States in disputes concerning a range of sectors, including the oil & gas, mining, telecommunications and financial industries. She serves on the Law Firm Coordination Task Force for the Silicon Valley Arbitration and Mediation Center (SVAMC). Ms. Lee received a J.D. from Harvard Law School in 2016, where she was an executive editor for the Harvard International Law Journal Online. She obtained a B.A. magna cum laude and Phi Beta Kappa from Columbia University in 2013. She is a native speaker of French and Korean and has basic knowledge of Spanish and Chinese.

4:15 – 4:30 p.m.

Break

4:30 p.m. – 6:00 p.m.

Critiquing the International Human Rights Infrastructure

- *Thinking Against Deportation*, Anja Bossow, NYU School of Law
- *Two Views of the Human Rights Committee*, David Moore, Brigham Young University Law School
- *A Dangerous Symbiosis: Human rights advocates, accountability mechanisms, and the need for information transparency and security*, Lisa Reinsberg, International Justice Resource Center
- Discussant: Juliet Sorenson, Northwestern University School of Law

International Dispute Resolution

- *Transparency in International Dispute Resolution - A Comparative Analysis of Selected Subsystems of International Law*, Bjorn Arp, American University Washington College of Law
- *The Myth of a Fact-Law Dichotomy: International Economic Adjudicators and Domestic Law*, Dafina Atanasova, Lecturer (MIDS) Geneva Center for International Dispute Settlement, IHEID/University of Geneva
- *Reconceptualizing the Legislative Stabilization Clause*, Jarrod Wong, McGeorge School of Law, University of the Pacific
- Discussant: Freya Baetens, University of Oslo Faculty of Law

COVID-19 and Treaties

- *Human Rights Treaty Derogation and COVID-19: WHO guidance and state response*, Audrey L. Comstock, Arizona State University
- *Effects of COVID-19 on Treaty Interpretation: State's conduct in terms of subsequent agreement and subsequent practice*, Rakesh Roshan, Supreme Court of India
- *A Human Right to the COVID-19 TRIPS Waiver? Confronting the fragmentation of international law during the global pandemic*, Sanya Samtani, University of Oxford
- Discussant: José Alvarez, NYU School of Law