

March 31 - April 1, 2022

# Clash of Cultures? Civil & Common Law Traditions in International Arbitration

---

8th Harvard International  
Arbitration Conference

Conference Co-Chairs



Dr. Claudia Annacker  
Dechert



Dietmar W. Prager  
Debevoise & Plimpton



Mohamed Shelbaya  
GBS Disputes

Organizer:



HARVARD  
INTERNATIONAL  
ARBITRATION LAW  
STUDENTS  
ASSOCIATION

Broadcaster:



Arbitration  
Channel

Gold Sponsors

WHITE & CASE

Debevoise  
& Plimpton

Silver Sponsor

CLEARY GOTTlieb

Bronze Sponsors

CHAFFETZ LINDSEY

COVINGTON

Dechert  
LLP



HARVARD  
INTERNATIONAL  
ARBITRATION LAW  
STUDENTS  
ASSOCIATION

Registration

# FREE REGISTRATION FOR ALL AUDIENCES

Do not miss the conference and  
register now on the following link:

<http://www.canalarbitragem.com.br/HIAC/>



HARVARD  
INTERNATIONAL  
ARBITRATION LAW  
STUDENTS  
ASSOCIATION



## 8th Harvard International Arbitration Conference (HIAC)

The HIAC is an annual conference hosted and organized by the Harvard International Arbitration Law Students Association (HIALSA). Harvard Law School has a vibrant and growing community of students and academics interested in international arbitration. Every year, the HIAC is a point of reference to arbitration practitioners around the world and widely regarded as one of the most important arbitration conferences in the United States. For the 8th HIAC, HIALSA has opted to focus on a conference title that is emblematic of arbitration's international nature: "Clash of cultures? Civil & Common Law traditions in international arbitration."

### About Harvard International Arbitration Law Students Association

HIALSA is the only student organization at Harvard Law School that focuses exclusively on the exciting field of international arbitration. Established in 2014, our mission is to promote the study of arbitration on campus and to connect students and arbitration practitioners.

### HIALSA Executive Board 2022

<b>President:</b>	Maryan Hassan (L.L.M.)
<b>VPs of Media &amp; Communication:</b>	Aleix Pérez-Pitarch (L.L.M.) Boyang Wang (LL.M.)
<b>VP of Alumni &amp; Sponsor Relations:</b>	Martina Monti (LL.M.)
<b>VPs of Social Events:</b>	Lodovico Amianto (LL.M.) Gökçe Gül Önder (LL.M.)
<b>VPs of Conference:</b>	Karim Zein (LL.M.) Sebastián Briceño (LL.M.) Aleksandra Żanowska (LL.M.)
<b>VPs of Academic Events:</b>	Bhushan Satish (LL.M.) Gabriela Olteanu (LL.M.) María Laura Pessarini (LL.M.)
<b>VPs of Finance:</b>	Eduardo Méndez (LL.M.) Reem Hussein (J.D.)
<b>VPs Masterclass Workshop:</b>	Richard Allemann (LL.M.) Suleyman Wellings-Longmore (LL.M.) Daniel Walker (J.D.)
<b>VP Secretary:</b>	Jennifer Yoo (LL.M.)



HARVARD  
INTERNATIONAL  
ARBITRATION LAW  
STUDENTS  
ASSOCIATION



# Welcome from the VPs of Conference

Dear Harvard International Arbitration Conference participants:

Our world is presently in flux. It has always been, but in recent times, there has been a notable acceleration. It is undisputable that globalization has shaped an increasingly interconnected world, while, at same time, provoking new cultural tensions and increasing the number of international disputes. Recent events in Eastern Europe have reminded us of the fragility of the rule of law and of international institutions.

However, we refuse to think about the interactions between cultures in terms of pure confrontation. The title of this year's conference, "Clash of Cultures? Civil & Common law traditions in international arbitration", is an invitation to analyze the constructive ways in which legal cultures interrelate through the lens of international arbitration. If there is one takeaway that we would love everyone to have from this conference, it is that international arbitration – with all its defects and glitches – stands to maintain that even the most complex disputes can be settled peacefully.

Paradoxically, the power of international arbitration resides in its simplicity and flexibility. International arbitration is nothing else than a common language between different cultures. In these complex times, instead of propelling a rhetoric of a "clash of cultures", we should advocate for cosmopolitanism: the simple and powerful idea that we all are citizens of the world. When disputes arise – either involving States, corporations, or foreign investors – the language of arbitration and of the rule of law should be the only available dialect.

It suffices to say that with 21 speakers of over 16 different nationalities, the 8th Harvard International Arbitration Conference is emblematic of this spirit. We are extremely grateful for the participation and support of our co-chairs, speakers, sponsors, and institutional supporters. A special thanks also goes to Harvard Law School and all the members of the Executive Board of HIALSA.

We hope that each of you will find this conference worthwhile and thought-provoking.

Kind Regards,



Karim Zein



Sebastián Briceño



HARVARD  
INTERNATIONAL  
ARBITRATION LAW  
STUDENTS  
ASSOCIATION

# 8th Harvard International Arbitration Conference Program

**March 31, 2022**

- 9:00 - 9:10**     **HIALSA Welcome** | Karim Zein and Sebastián Briceño
- 9:10 - 9:50**     **Keynote Speech - Co-Chair**  
Dr. Dietmar W. Prager (Debevoise & Plimpton)
- 10:00 - 11:00**   **Panel 1: Good faith in civil and common law traditions – antagonistic doctrines?**  
Panelists:     Nigel Blackaby QC (Freshfields Bruckhaus Deringer)  
                     Roland Ziadé (Linklaters)  
Moderator:     Sarah Vasani (CMS)
- 11:00 - 11:30**   **Break**
- 11:30 - 12:30**   **Panel 2: Arbitrators' powers to review contracts – hardship and force majeure in comparative perspectives**  
Panelists:     Nicole Duclos (Covington & Burling)  
                     Elie Kleiman (Jones Day)  
Moderator:     Sven Volkmer (White & Case)
- 12:30 - 14:00**   **Lunch Break**
- 14:00 - 15:00**   **Panel 3: Taking of evidence in international arbitration – mix of traditions**  
Panelists:     James Hosking (Chaffetz Lindsey)  
                     Patricia Saiz (ESADE Law School)  
Moderator:     Ari MacKinnon (Cleary Gottlieb Steen & Hamilton)
- 15:10 - 15:50**   **Keynote Speech - Co-Chair**  
Mohamed Shalbaya (GBS Disputes)

**April 1, 2022**

- 8:50 - 9:00**     **HIALSA Welcome** | Karim Zein and Sebastián Briceño
- 9:00 - 10:00**   **Panel 4: Quantification of damages in international arbitration – inherent differences between civil and common law jurisdictions?**  
Panelists:     Juliette Fortin (FTI Consulting)  
                     Peter Rosher (Reed Smith)  
Moderator:     Deva Villanúa (Armesto y Asociados)
- 10:10 - 11:10**   **Panel 5: Interim measures in commercial and investment arbitrations – where do we stand today?**  
Panelists:     Philippe Pinsolle (Quinn Emanuel Urquhart & Sullivan)  
                     Rafael Rincon (Zuleta Abogados)  
Moderator:     Isabel Fernández de la Cuesta (King & Spalding)
- 11:10 - 11:30**   **Break**
- 11:30 - 12:30**   **Panel 6: Enforcement of awards and local courts - dialogue between traditions and the New York Convention**  
Panelists:     Adrián Magallanes (Von Wobeser y Sierra)  
                     Eva Y. Chan (Skadden)  
Moderator:     Leah Njoroge-Kibe (ICSID)
- 12:30 - 13:10**   **Keynote Speech - Co-Chair**  
Dr. Claudia Annacker (Dechert)
- 13:10 - 13:20**   **HIALSA Closing remarks**  
Maryam Hassan, HIALSA President

# Keynote Speech

Clash of civilizations? The role of international arbitration in maintaining peace

**March 31, 2022** | 9:10 - 9:50 EDT



**Dr. Dietmar W. Prager**  
Debevoise & Plimpton

Dr. Dietmar W. Prager is a litigation partner who focuses his practice on international arbitration and litigation. He co-leads Debevoise & Plimpton's Latin America Practice Group. Dr. Prager has represented parties in numerous arbitrations throughout the world. He was also one of the youngest lawyers ever to argue before the International Court of Justice.

Dr. Prager's recent representations include disputes involving complex infrastructure projects, mining projects, shareholder disputes, investment treaties, oil & gas projects, energy projects, the retail sector, the finance sector, sovereign debt and distribution agreements. Dr. Prager also regularly sits as arbitrator.



HARVARD  
INTERNATIONAL  
ARBITRATION LAW  
STUDENTS  
ASSOCIATION



# Keynote Speech

International arbitration between  
legal cross-pollination and legal  
acculturation

**March 31, 2022** | 15:10 - 15:50 EDT



**Mohamed Shelbaya**  
GBS Disputes

Mohamed Shelbaya has represented companies, States and State-owned entities in more than 60 commercial and investment treaty matters, including many multibillion-dollar disputes involving novel questions of international law and geopolitical issues. He also advises energy companies regarding their contractual portfolio and on how to manage potential liability and mitigate litigation risk. He advises governments and State entities on the restructuring of their respective energy sectors.

Mohamed also regularly acts as arbitrator in commercial and investment arbitrations and teaches investment arbitration at Sciences Po Law School.



HARVARD  
INTERNATIONAL  
ARBITRATION LAW  
STUDENTS  
ASSOCIATION

# Keynote Speech

Investment arbitration at the  
crossroads of civil and common law

**April 1, 2022** | 12:30 - 13:10 EDT



**Dr. Claudia Annacker**  
Dechert

Dr. Claudia Annacker focuses her practice on international arbitration and litigation and public international law matters, in particular investor-State disputes, inter-State disputes, disputes involving international organizations and human rights cases. She has represented states and investors in more than 30 investment treaty arbitrations.

Dr. Annacker also acts as arbitrator. She was appointed to the ICSID Panel of Arbitrators in 2020. She is also an adjunct professor at the University of Vienna, where she teaches advanced research seminars in international responsibility and international dispute settlement.



HARVARD  
INTERNATIONAL  
ARBITRATION LAW  
STUDENTS  
ASSOCIATION

## Panel 1

# Good faith in civil and common law traditions – antagonistic doctrines?

**March 31, 2022** | 10:00 - 11:00 EDT



**Nigel Blackaby QC**  
(Freshfields Bruckhaus  
Deringer)

Panelist



**Sarah Vasani**  
(CMS)

Moderator



**Roland Ziadé**  
(Linklaters)

Panelist



HARVARD  
INTERNATIONAL  
ARBITRATION LAW  
STUDENTS  
ASSOCIATION



## Panel 2

# Arbitrators' powers to review contracts – hardship and *force majeure* in comparative perspectives

March 31, 2022 | 11:30 - 12:30 EDT



**Nicole Duclos**  
(Covington & Burling)

Panelist



**Sven Volkmer**  
(White & Case)

Moderator



**Elie Kleiman**  
(Jones Day)

Panelist



HARVARD  
INTERNATIONAL  
ARBITRATION LAW  
STUDENTS  
ASSOCIATION

## Panel 3

# Taking of evidence in international arbitration – mix of traditions

**March 31, 2022** | 14:00 - 15:00 EDT



**James Hosking**  
(Chaffetz Lindsey)

Panelist



**Ari MacKinnon**  
(Cleary Gottlieb Steen & Hamilton)

Moderator



**Patricia Saiz**  
(ESADE Law School)

Panelist



HARVARD  
INTERNATIONAL  
ARBITRATION LAW  
STUDENTS  
ASSOCIATION

## Panel 4

# Quantification of damages – inherent differences between civil and common law jurisdictions?

**April 1, 2022** | 9:00 - 10:00 EDT



**Juliette Fortin**  
(FTI Consulting)

Panelist



**Deva Villanúa**  
(Armesto y Asociados)

Moderator



**Peter Rosher**  
(Reed Smith)

Panelist



HARVARD  
INTERNATIONAL  
ARBITRATION LAW  
STUDENTS  
ASSOCIATION



## Panel 5

# Interim measures in commercial and investment arbitrations – where do we stand today?

**April 1, 2022** | 10:10 - 11:10 EDT



**Philippe Pinsolle**  
(Quinn Emanuel  
Urquhart & Sullivan)

Panelist



**Isabel Fernández de la  
Cuesta**  
(King & Spalding)

Moderator



**Rafael Rincon**  
(Zuleta Abogados)

Panelist



HARVARD  
INTERNATIONAL  
ARBITRATION LAW  
STUDENTS  
ASSOCIATION

## Panel 6

# Enforcement of awards and local courts - dialogue between traditions and the New York Convention

**April 1, 2022** | 11:30 - 12:30 EDT



**Adrián Magallanes**  
(Von Wobeser y Sierra)

Panelist



**Leah Njoroge-Kibe**  
(ICSID)

Moderator



**Eva Y. Chan**  
(Skadden)

Panelist



HARVARD  
INTERNATIONAL  
ARBITRATION LAW  
STUDENTS  
ASSOCIATION

## President's Note

Dear Friends of HIALSA,

A timely retrospective is in order as we not only look back at how far the organization has come, but we also take the time to recognize those who helped make HIALSA what it is today. I would like to thank our founding and previous executive board colleagues, faculty advisor (Prof. Mark Beckett) and the entire advisory board.

One founding advisory board member was the brilliant and inimitable late Prof. Emmanuel Gaillard. As a hugely popular visiting professor at Harvard Law School, Prof. Gaillard was a driving force and guiding light to students. HIALSA was created with his support, and he was renowned for staying in touch with students and supporting young arbitration practitioners. When I was appointed as the youngest woman on the ICSID panels in 2016, he was the first to congratulate me. I feel truly honored to have known him.

Our conference's title theme, true to form, encapsulates Prof. Gaillard's broad scholarship and practice. Whether it was undertaking pro-bono work in civil law Djibouti or representing clients in common law New York, he would embrace and honor the legal traditions of each place. Indeed, he was a testament to the truly international nature of arbitration.

On behalf of the entire HIALSA Executive Board I would like to pay special tribute to Prof. Gaillard.

With Appreciation,



Maryan Hassan



HARVARD  
INTERNATIONAL  
ARBITRATION LAW  
STUDENTS  
ASSOCIATION



# Institutional Sponsors



AMERICAN  
ARBITRATION  
ASSOCIATION®

ALARB

Asociación Latinoamericana de Arbitraje  
Associação Latinoamericana de Arbitragem

ARBITRAL  
WOMEN

● ARBITRATOR  
INTELLIGENCE  
REPORTS

- ✓ Focus Your Strategy
- ✓ Refine Your Inquiries
- ✓ Know Your Tribunal



ARBITRATION INSTITUTE  
OF THE STOCKHOLM CHAMBER OF COMMERCE

غرفة البحرين لتسوية المنازعات

BC  
DR

Bahrain Chamber for Dispute Resolution

CAM·CCO

CENTER FOR ARBITRATION AND MEDIATION

CIAC

California International Arbitration Council

#CAREERS  
IN ARBITRATION



CI Arb  
evolving to resolve  
North America Branch



CRCICA

THE CAIRO REGIONAL  
CENTRE FOR INTERNATIONAL  
COMMERCIAL ARBITRATION  
مركز القاهرة الإقليمي  
للتحكيم التجاري الدولي



مركز دبي للتحكيم الدولي  
Dubai International Arbitration Centre

An Initiative by Dubai Chamber of Commerce & Industry



EQUAL  
REPRESENTATION IN  
ARBITRATION



GREENER  
ARBITRATIONS



Global  
VYAP Network



HARVARD  
INTERNATIONAL  
ARBITRATION LAW  
STUDENTS  
ASSOCIATION

## Institutional Sponsors



HARVARD  
INTERNATIONAL  
ARBITRATION LAW  
STUDENTS  
ASSOCIATION





HARVARD  
INTERNATIONAL  
ARBITRATION LAW  
STUDENTS  
ASSOCIATION