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Accomplishments: ITA Academic Council Members

✦ **Prof. Patricia Shaughnessy**, member ITA Academic Council, unanimously appointed as the successor to Professor Eric Bergsten as President of the VIS Moot.: <https://www.vismoot.org/>

✦ **Prof. Victoria Sahani**, chair ITA Academic Council, appointed Associate Provost for Community and Inclusion and Professor of Law at Boston University: <https://www.bu.edu/law/profile/victoria-sahani/>

✦ **Prof. Kun Fan**, member ITA Academic Council, has published: “Beyond Law and Politics: Judicial Mediation in China”, *Journal of International Dispute Settlement* (Oxford University Press), (2023) vol. 00, No. 00, pp. 1–29. *Beyond law and politics, which has been typically the focus of prior research on judicial mediation in China, this paper considers how will other factors influence individual judicial behavior in China? How do the gains of efficiency and substantive justice compare with the potential losses of procedural protec-*

tions? Is the mandate of the judges to resolve the disputes between the parties by the most appropriate means, or is it only an attempt to render and enforce an authoritative binding decision? Do judges see their role as only to resolve the immediate conflicts between the parties or as a guardian of justice that transcends the parties? Through a series of interviews of Chinese judges in six courts in three different cities at different stages of economic developments, the research provides an empirical narrative on how judicial mediation is actually practiced in China and analyzes values and limitations of judicial mediation. The paper empirically illustrates the multiplicity of influences on judicial behavior in China, and the perception of the role of judges in China. Conceptually, the paper aspires to contribute to the field of comparative judicial behaviour. This study attempts to expand our inquiry to areas beyond the role of politics and law when analyzing judicial behavior

✦ **Prof. Kun Fan**, member ITA Aca-

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demical Council, has published: “A Review of China’s Sustainable Development Goals through Bilateral Investment Treaties”, *ICC Dispute Resolution Bulletin* (2022), Issue 3, pp. 29-37

Based on a comprehensive treaty survey, the article presents the general approaches to sustainable development goals (SDGs) in Chinese International Investment Agreements (IIAs). With the global trend towards investor responsabilisation, a new generation of investment policies places inclusive growth and sustainable development at the heart of efforts to attract and benefit from the investment. While there is still an overall lack of sustainable development provisions in existing Chinese IIAs, an increasing number of China's recent treaties move towards sustainability. Most sustainable development provisions in Chinese IIAs are carve-out provisions to preserve the States' regulatory space in public health, environment, and other SDGs. In recent IIAs, provisions include social and environmental obligations on investors, ranging from a mere signal of the

Contracting Parties' commitment to sustainable development in the preamble, to corporate social responsibility (CSR) type provision in the form of no lowering of standards clauses or best endeavours provisions. Finally, procedural provisions on sustainable development safeguard substantive protections.

✦ **Prof. Kun Fan**, member ITA Academic Council, and Charlie Xiaochuan Weng (ed.) have published: COVID-19 and International Business and Economic Law: China and a Changing World, Academic Publishing, 2023.

The book features a selection of papers presented at the 2020 CIBEL Global Network Conference and Young Scholars Workshop, a series of events which were dedicated to researching urgent issues in the realm of international business and economic law, specifically within the theme of ‘COVID-19 and International Economic Law: China and a Changing World.’ The volume explores the impact of COVID-19 on international business and economic law on China and a changing

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world, with a particular focus on the effects of COVID-19 on competition law and corporate law, investment law, and dispute resolution. With respect to investment law and dispute resolution, the book discussed issues ranging from the intersection between investment law and other areas of public international law such as global health law, to the effectiveness of the public interest clauses in Chinese International Investment Agreements (IIAs) in preserving states' regulatory space, from mediation as a viable alternative to arbitration for pandemic-related disputes to digitalization of arbitration.

✦ **Catharine Titi**, member ITA Academic Council, has published **The Parthenon Marbles and International Law** by (Springer 2023), with a preface by **Andrew Wallace-Hadrill**.

The Parthenon marbles case is the most famous international cultural heritage dispute concerning repatriation of looted antiquities, the Parthenon marbles in the British Muse-

um's 'Elgin Collection'. The case has polarised observers ever since Elgin had the marbles hacked out of the ancient temple at the turn of the 19th century in Ottoman-occupied Athens. In 1816, a debt-stricken Elgin sold the marbles to the British government, which subsequently entrusted them to the British Museum, where they have remained since then.

Much ink has been spilled on the Parthenon marbles. The ethical and cultural merits of their repatriation have been fiercely debated for years. But what has generally not been considered are the legal merits of their return in light of contemporary international law. This book is the first in legal scholarship to provide an international law perspective of the cause célèbre of international cultural heritage disputes and, in doing so, to clarify the new customary international law on the return of cultural property unlawfully removed from its original context.

The book is a unique reference work on the legal case for the return of the Parthenon marbles and the new

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normative framework for the protection of cultural heritage.

<https://catharinetiti.com/The-Parthenon-Marbles-and-International-Law/>

✦ **Prof. Crina Baltag**, vice-chair the ITA Academic Council, was appointed in the IBA Task Force on the update of the IBA Guidelines on Conflicts of Interest in International Arbitration.

✦ **Prof. Crina Baltag**, vice-chair the ITA Academic Council, together with **Prof. Kabir Duggal**, member ITA Academic Council, and Riddhi Joshi, have published “**Recent Trends in Investment Arbitration on the Right to Regulate, Environment, Health and Corporate Social Responsibility: Too Much or Too Little?**”, in *ICSID Review - Foreign Investment Law Journal*, 2023, with open access at <https://academic.oup.com/icsidreview/advance-article/doi/10.1093/icsidreview/siac031/7071716>

The article addresses the recent trends in investment arbitration, focusing on the evolution of international investment

agreements from the perspective of the right of the States to regulate in public interest, as well as of the provisions concerning environment, health, and corporate social responsibility. These issues have been chosen because they highlight areas where the tension between sovereign and private interests is evident, as well as where States often face resistance in implementing public policy.

✦ **Prof. Crina Baltag**, vice-chair the ITA Academic Council, together with **Prof. Kabir Duggal**, member ITA Academic Council, and Kiran Nasir Gore and Elijah Putilin, have published “**International Investment Law and Investor-State Disputes in Central Asia: Emerging Issues**”, Kluwer Law International, 2022, available at <https://lawstore.wolterskluwer.com/s/product/international-investment-law-and-arbitration-in-central-asia/01t4R00000P3c2dQAB> and in Kluwer Arbitration database.

✦ **Prof. Kathleen Claussen** has been appointed as Professor of Law at Georgetown Law, <https://www.law.georgetown.edu/faculty/kathleen-claussen/>

20th ITA-ASIL Conference

20th ITA-ASIL Conference: Reforming Arbitration Reform: Emerging Voices, New Strategies, Evolving Values, March 29, 2023

Co-chaired by **Prof. Crina Baltag**, Associate Professor, Stockholm University, Stockholm, and **Prof. Mark Feldman**, Peking University, School of Transnational Law, Shenzhen

<https://www.cailaw.org/Institute-for-Transnational-Arbitration/Events/2023/ita-asil.html>

New voices are reshaping international arbitration practice by adopting innovative reform strategies and upholding evolving values. International, supranational and domestic actors are each playing significant roles as rule-makers, with varying degrees of transparency. Driving forces are sustainability, inclusiveness and regionalism. Sustainability and inclusiveness – including the rebalancing of a range of social and environmental interests will affect international arbitration practice on many levels; one key challenge will be determining how to apply emerging standards in concrete ways and in particular disputes. On regionalism, rulemaking affecting international arbitration practice today, in significant part, is regional rulemaking by international and supranational actors. New voices relying on innovative strategies to uphold evolving values will significantly impact the practice area.

Who are the law makers in the new age of arbitration?

35th Annual ITA Workshop and Annual Meeting

35th Annual ITA Workshop and Annual Meeting
Remedies in International Arbitration: Wielding Arbitral Power
for Effective Redress, Austin, June 14, 2023 - June 16, 2023

Workshop Co-Chair: **Dr. Diane A. Desierto**, member ITA Academic Council, University of Notre Dame Law School, Notre Dame, US

<https://www.cailaw.org/Institute-for-Transnational-Arbitration/Events/2023/ita-workshop.html>

Young ITA Writing Competition

YOUNG ITA COMPETITION AND AWARD 2022-2023 “New Voices in International Arbitration”

The Final Round will be judged by ITA Academic Council members:

Prof. Emilia Onyema (SOAS University of London, UK);

Prof. Petra Butler (Victoria University of Wellington, New Zealand); and

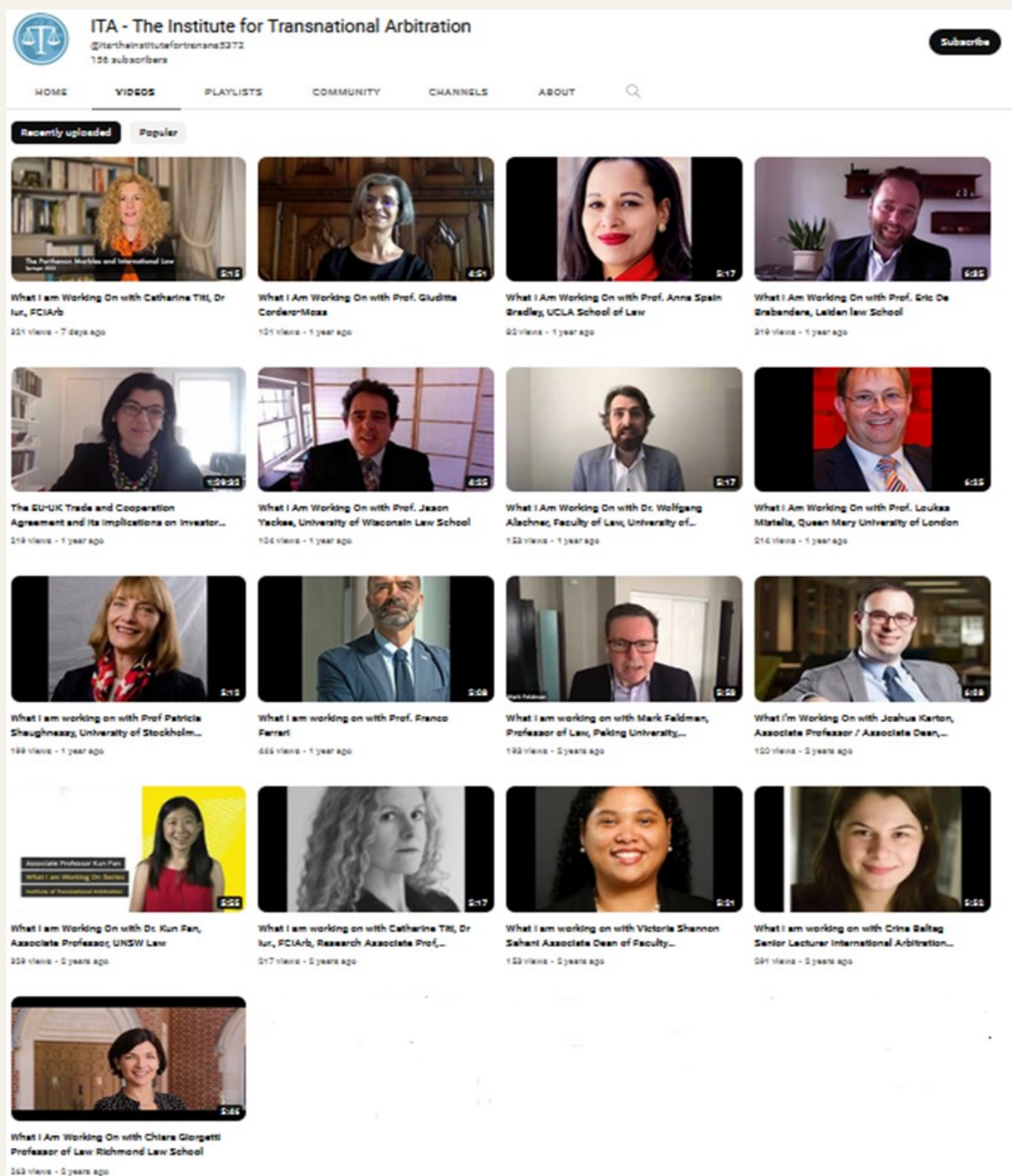
Prof. Andrea Bjorklund (McGill University, Canada).

<https://www.cailaw.org/media/files/ITA/young-ita-award.pdf>

ITA Academic Council Initiatives

ACADEMIC COUNCIL: What I am Working On

Contribute with your latest research updates!



The screenshot shows the YouTube channel page for ITA - The Institute for Transnational Arbitration. The channel has 156 subscribers. The page is displaying a grid of 17 videos under the 'Recently uploaded' tab. Each video is titled 'What I am Working On' followed by the name of the speaker and their affiliation. The videos are arranged in a grid with 4 columns and 4 rows, with the last row containing only one video.

Video Title	Speaker	Views	Time Ago
What I am Working On with Catharine Titi, Director, FCIArb	Catharine Titi, Director, FCIArb	321	7 days ago
What I Am Working On with Prof. Giuditta Cordaro-Moax	Prof. Giuditta Cordaro-Moax	101	1 year ago
What I Am Working On with Prof. Anna Spain Bradley, UCLA School of Law	Prof. Anna Spain Bradley, UCLA School of Law	92	1 year ago
What I Am Working On with Prof. Eric De Srebrense, Leiden Law School	Prof. Eric De Srebrense, Leiden Law School	219	1 year ago
The EU-UK Trade and Cooperation Agreement and its implications on investor...	Speaker (not fully visible)	219	1 year ago
What I Am Working On with Prof. Jason Yackee, University of Wisconsin Law School	Prof. Jason Yackee, University of Wisconsin Law School	104	1 year ago
What I Am Working On with Dr. Wolfgang Alschner, Faculty of Law, University of...	Dr. Wolfgang Alschner, Faculty of Law, University of...	122	1 year ago
What I Am Working On with Prof. Loukas Mistelis, Queen Mary University of London	Prof. Loukas Mistelis, Queen Mary University of London	216	1 year ago
What I am working on with Prof. Patricia Shaughnessy, University of Stockholm...	Prof. Patricia Shaughnessy, University of Stockholm...	199	1 year ago
What I am working on with Prof. Franco Ferrari	Prof. Franco Ferrari	665	1 year ago
What I am working on with Mark Feldman, Professor of Law, Peking University...	Mark Feldman, Professor of Law, Peking University...	192	2 years ago
What I'm Working On with Joshua Karton, Associate Professor / Associate Dean...	Joshua Karton, Associate Professor / Associate Dean...	100	2 years ago
What I am Working On with Dr. Kun Fan, Associate Professor, UNSW Law	Dr. Kun Fan, Associate Professor, UNSW Law	329	2 years ago
What I am working on with Catharine Titi, Director, FCIArb, Research Associate Prof...	Catharine Titi, Director, FCIArb, Research Associate Prof...	217	2 years ago
What I am working on with Victoria Shannon Sahani, Associate Dean of Faculty...	Victoria Shannon Sahani, Associate Dean of Faculty...	122	2 years ago
What I am working on with Crina Baltag, Senior Lecturer International Arbitration...	Crina Baltag, Senior Lecturer International Arbitration...	291	2 years ago
What I Am Working On with Chiara Giorgetti, Professor of Law, Richmond Law School	Prof. Chiara Giorgetti, Professor of Law, Richmond Law School	222	2 years ago

ITA Academic Council Initiatives

ACADEMIC COUNCIL: Kluwer Arbitration Blog

Contribute with your recent research and publications, or conference engagements!

Wolfgang Alschner, [From a Backlash Against Investment Arbitration to a Backlash by Investment Arbitrators?](#)

States have spent the last decade and a half rebalancing the design of their international investment agreements (IIAs). In their new-generation IIAs, states have clarified core protective standards, omitted controversial clauses, and inserted new carve-outs and general exceptions. These reformed treaties, it was hoped, would provide investment tribunals with “new analytical devices for adjudicating disputes involving competing policy objectives” and alleviate concerns over the undue restraints earlier IIAs had placed on states’ right to regulate. These new-generation IIAs are now beginning to be litigated and the first series of awards under them suggests that the hopes they raised have been disappointed. Instead, new treaties have produced old outcomes.

Guillermo Garcia Sanchez, [Mexico’s New Energy Sovereignty Puts the USMCA Dispute Resolution Mechanisms to a Test](#)

A North American energy trade war may be on the horizon. President Andres Manuel Lopez Obrador (AMLO) is backstepping the opening of Mexican energy markets by halting the issuance of permits, providing competitive advantages to state-owned enterprises, and attacking independent regulators. The re-centralization of the energy sector is being done in the name of Mexico’s “energy sovereignty.” Naturally, foreign companies that invested in Mexico after the passing of the 2013 comprehensive energy reform are alleging unfair and discriminatory treatment.

Laurence Boisson De Chazournes, [Consent in Investment Arbitration: A Few Remarks](#)

When it comes to consent to the jurisdiction of international courts and tribunals, its understanding and interpretation raise a fundamental question – do we really know what it means? In this blog post, it will be demonstrated that there are a number of uncertainties around the notion of consent in investment arbitration. The theoretical underpinnings of consent will be first briefly introduced. The blogpost will then highlight that the different means of expression of consent of a State to arbitration leads to different interpretative issues in ascertaining the contours of consent. To illustrate the varied techniques deployed in interpreting consent, possibly leading to the expansion of arbitral jurisdiction, the blogpost will then analyse the issue of State consent in the context of most-favoured nation (MFN) clauses as a case study.

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ACADEMIC COUNCIL: Kluwer Arbitration Blog

Contribute with your recent research and publications, or conference engagements!

Giuditta Cordero-Moss, [Independence and Impartiality: Myths and Reality](#)

The International Academy of Comparative Law (IACL) held its XXI General Congress in October 2022. The topic of one of the sessions was Impartiality and Independence of International Adjudicators. The purpose of the work was to assess criteria, mechanisms and remedies applied in the various legal systems (including international courts and arbitration) to ensure the adjudicator's independence and impartiality. As it is often revealed by exercises of comparative law, seemingly different approaches may in practice be quite similar, and vice versa: what seems to be equivalent approaches, may turn out not to be so similar after all.

Diane A. Desierto, [Global Perspectives on Teaching International Investment Arbitration: Teaching International Investment Arbitration in the Global North and the Global South](#)

Geography, culture, politics, economic conditions, and population demographics, in my view, account for very different narratives and reactions to the teaching of international investment arbitration. In the last 13 years, I have had the distinct experience of in-person and/or virtual teaching of a course and/or guest lecturing international investment arbitration in a wide range of polemical contexts in the Global South (e.g. the Philippines, China, the Association of Southeast Asian Nations Member States, Latin America, Africa), as well as in the Global North (e.g. Hawaii, Stanford, Yale, and Notre Dame in the United States, Paris, and the Hague).

Emilia Onyema, [Global Perspectives on Teaching International Investment Arbitration: Teaching International Investment Law and Arbitration at SOAS University of London](#)

The School of Law at SOAS University of London is unique among Law Schools in London. We have a distinct 'Southern' perspective in our course content, and we take a socio-legal dimension in our engagement with the law and how we teach law to our students. We bring these to our teaching on the international investment law module. The module is taught on our postgraduate programmes in international law (LLM for those with a legal background and MA for those who do not have an undergraduate degree in law), by Emilia Onyema (academic and independent arbitrator), Baiju Vasani (SOAS Senior Fellow and arbitrator/counsel), and Hussein Haeri (SOAS Senior Fellow and arbitrator/counsel). This post sets out the pedagogical principles adopted in the teaching and delivery of international investment law at SOAS.

ITA Academic Council Initiatives

ACADEMIC COUNCIL— The ITA Academic Council Oral History Project: Perspectives on International Arbitration



A Conversation with George A. Bermann

Jean Monnet Professor of EU Law and Walter Gellhorn Professor, Columbia Law School, New York

With

Prof. Andrea K. Bjorklund, McGill University Faculty of Law, Montreal

(46 minutes)



GEORGE A. BERMANN is professor of law and director of the Center for International Commercial and Investment Arbitration at Columbia Law School, as well as member of the faculty of the Ecole de droit, Sciences Po (Paris) and the Geneva LL.M. in International Dispute Settlement (MIDS). He has been an arbitrator in scores of international commercial and investment cases since 1985 under the aegis of most leading international arbitral institutions. He is head of the global advisory board of the New York International Arbitration Center (NYIAC), fellow of Chartered Institute of Arbitrators, founding member of the Governing Board of the ICC International Court of Arbitration (Paris), and head of the advisory board of the Thai Arbitration Center (Bangkok) and Center for International Investment and Commercial Arbitration (Lahore, Pakistan). Professor Bermann is Chief Reporter of the ALI Restatement of the US Law of International Commercial Arbitration, co-editor-in-chief American Review of International Arbitration and member of board of editors of Revue de l'Arbitrage. He co-authored (with E. Gaillard) the UNCITRAL Guide to the New York Convention and author of many books, book chapters and articles on international dispute resolution, notably international arbitration.

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