

THE AMERICAN LAW INSTITUTE

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THE AMERICAN LAW INSTITUTE **100**

THE AMERICAN LAW INSTITUTE
4005 CHESTNUT STREET, PHILADELPHIA, PA 19104

NONPROFIT 501(c)(3)
ALI

Support ALI's Second Century Fund

Look inside for more information. To donate, contact ALI Director Richard L. Revesz at Director@ali.org or call our development office at (215) 243-3650.

ALI's Second Century Campaign

In less than a year, we will gather at the 2023 Annual Meeting to celebrate the ALI's 100th Anniversary, where together we will look back with great pride on what the ALI has already accomplished, and look ahead at what we might achieve together in our next century.

To ensure that the ALI is prepared for its next 100 years, we have undertaken a capital fundraising effort—the Second Century Campaign—with the ambitious goal of raising \$25 million by the end of 2023. The Institute has never embarked on a capital campaign of this magnitude, and is unlikely to do so again during our lifetime. In order to reach this critical funding, we need your help.

One of the most critical components of our campaign is the **100 for 100 program**. The premise is simple: if 100 members who have the means, who cherish the rule of law, and who value our vital work each commit to donating \$250,000 to the campaign, we will be within striking distance of the \$25 million goal. If you have not yet supported the campaign, we hope that you will consider becoming one of the 100.

Every donation, no matter the size, is greatly appreciated. A successful Second Century campaign will establish a solid financial foundation for the ALI's future without compromising its independence. We look forward to celebrating the ALI's 100th anniversary and a successful Second Century Campaign with all of you at the 2023 Annual Meeting in Washington, D.C. (May 22-24).

Kindred regards,

David F. Levi *Richard L. Revesz*
ALI President David F. Levi ALI Director Richard L. Revesz

How Can Members Support the Campaign?

There are several ways to support the Second Century Campaign. Members may make a one-time gift, make a pledge to be paid in up to 10 annual installments, or include the ALI in your estate plans. To learn more, please contact ALI Director Richard L. Revesz at Director@ali.org or call our development office at (215) 243-3650.

100 FOR 100 DONORS

Although the 100 for 100 challenge has only begun, we would like to recognize the inaugural donors. We are profoundly grateful for their generous support. We hope that you will consider joining the growing list below. By participating in this program, you will have a major impact on the ALI's future.

Aggar-Blick Foundation	Robert H. Mundham
Theodore W. Burns	Stephania Parker
Elizabeth J. Cahalan	Douglas J. Pines
J. William Elvik, Jr.	Roberta Cooper Ramo and
Sharon and Ivan Fong	Gary W. Ramo
Teresa Wilson-Harmon	Yvonne Gonzalez Rogers and
Conrad and Martha Harper	Matt Rogers
William C. Hubbard	Maryse B. Sarnes
Renee Knebe Jefferson and	Elizabeth S. Stone
Wallace B. Jefferson	Lon and Steve Weiser
Carol F. Lee and Daniel J. Snipe	

We are exceptionally grateful to the following major donors who have supported the Second Century Campaign.

SECOND CENTURY VISIONARY (\$25 million or more)

Barnett Stoney
Mary Kay Kinn

SECOND CENTURY PATRON (\$1 million to \$2.49 million)

Carnegie Corporation of New York
Andrea W. and Kenneth C. Frazer Family Foundation
Vedler T. Hughes, Jr.
Victor E. Schwartz
Anonymous

SECOND CENTURY REFLECTOR (\$500,000 to under \$1 million)

Ann and Daniel C. Glued
Andrew Hendry
Lee and Gary Rosenblatt

SECOND CENTURY SUPPORTER (\$250,000 to under \$500,000)

David F. Levi
Judith Miller and Peter Baicoms
Anonymous (2)

Law Firm Donors

On the occasion of our 100th Anniversary, law firms are joining us in our goal of protecting and promoting the rule of law for a second century. We invite our members at firms to encourage firm participation in the campaign. Law firm donors at the President's Circle, Director's Circle, Patron, or Benefactor level will be recognized in a variety of ways, including by prominently displaying firm names or logos on the ALI website, in print publications, and at our 2023 Annual Meeting.

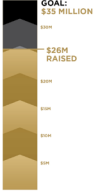
LAW FIRM GIVING LEVELS

PRESIDENT'S CIRCLE - \$200,000
DIRECTOR'S CIRCLE - \$100,000
PATRON - \$50,000
BENEFACTOR - \$50,000

*Contributions may be made over a five-year period.

With gratitude, we recognize the following law firms as the inaugural donors to the President's Circle.

JONES DAY	HUNGER TOLLES & GLENN
THE SOLEY AUSTIN FOUNDATION	WACHTELL LIPSTON ROSEN & KATZ



2023 Annual Meeting

May 22-24 | Washington, D.C.

THIS YEAR, THE MONDAY AND TUESDAY LUNCHEONS WILL BE HELD AT AN OFF-SITE LOCATION:
Washington Marriott Georgetown
Metropolitan Ballroom
1221 22nd Street NW
Washington, DC 20037

MONDAY MEMBERS LUNCHEON: WELCOMING NEW MEMBERS

All members and guests are invited to attend this luncheon honoring New Life (Class of 1998) and New 50-Year (Class of 1973) members. The 1998 and 1973 Class Gifts will be presented to the Institute by class representatives. ALI Council Member Gerard E. Lynch, Life Member from the Class of 1998, will speak at the event.
Tickets are \$65 per person.

TUESDAY MEMBERS LUNCHEON: HONORING NEW 25-YEAR AND 50-YEAR MEMBERS

All members and guests are welcome to attend this luncheon honoring New Life (Class of 1998) and New 50-Year (Class of 1973) members. The 1998 and 1973 Class Gifts will be presented to the Institute by class representatives. ALI Council Member Gerard E. Lynch, Life Member from the Class of 1998, will speak at the event.
Tickets are \$65 per person.



MEMBERS RECEPTION AND BUFFET AT THE NATIONAL PORTRAIT GALLERY

Location: 8th and G Streets NW
The panel discussion will begin following the open-bar reception and buffet. Round-trip shuttle buses will transport Meeting attendees from The Ritz-Carlton beginning at 6:15 p.m., and back to The Ritz-Carlton upon the conclusion of this event.
Tickets are \$85 per person.

Agenda

The Annual Meeting will be held in person at The Ritz-Carlton, Washington, D.C. Please note alternate locations for some events.

SUNDAY, MAY 21

2:00-3:00 p.m. Unexamined Courage
Featuring: Michelle Childs, U.S. Court of Appeals for the District of Columbia Circuit, and Richard Mark Gergel, U.S. District Court for the District of South Carolina

3:30-5:30 p.m. ALI CLE Ethics Program: The Issues and Ethics of Litigation Financing
Featuring: Tom Baker, University of Pennsylvania Carey Law School (moderator); Jamie Chen of D. E. Shaw & Co.; Victoria Shannon Sahani, Boston University School of Law; Virginia A. Seltz, Seltz, Seltz, Austin, and Sash; S. Vance, U.S. District Court for the Eastern District of Louisiana

Tuition for this program is \$150 for ALI members, \$195 for all others. To register, use the ALI Annual Meeting registration form. Registrations will be accepted at the door if space permits.
2 hours ethics credit

MONDAY, MAY 22

8:30 a.m. Opening Session

9:00 a.m. Copyright

10:30 a.m. Torts: Medical Malpractice and Torts: Miscellaneous Provisions

12:15 p.m. Members Luncheon (Marriott)
Featuring: ALI President David F. Levi and ALI Director Designate Diane P. Wood

1:45 p.m. 100th Anniversary Program: Social Media and Democracy

Featuring: Mary H. Murguia, U.S. Court of Appeals for the Ninth Circuit (moderator); Cindy Cohen, Electronic Frontier Foundation; Nita A. Farberany, Duke University School of Law; Steven Feldstein, Carnegie Endowment for International Peace; and David French, *The New York Times*

3:15 p.m. Presentation of John Minor Wisdom Award
Panel: The State of Democracy in the United States
Margaret H. Marshall of Choate Hall & Stewart
Michael Traynor of Cobalt will present the award to Mary M. Schroeder of the U.S. Court of Appeals for the Ninth Circuit.

3:45 p.m. Property

7:00-9:30 p.m. Members Reception and Buffet (National Portrait Gallery)
Panel: The State of Democracy in the United States
Featuring: David M. Rubenstein, The Carlyle Group (moderator); Danielle Allen, Harvard University; and David Brooks, *The New York Times*

TUESDAY, MAY 23

8:30 a.m. ALI Early Career Scholars Program
Presentation by Ashley S. Dalek, University of Virginia School of Law

9:00 a.m. 100th Anniversary Program: Artificial Intelligence and Society
Featuring: Travis LeBlanc, Copley (moderator); Ruth L. O'Leary, Harvard Law School; Marc Rotenberg, Center for AI and Digital Policy; and Brad Smith, Microsoft

10:30 a.m. Children and the Law

12:00 p.m. Presentation of Distinguished Service Award
ALI Director Designate Diane P. Wood of the U.S. Court of Appeals for the Seventh Circuit will present the Distinguished Service Award to Roberta Cooper Roper of Modrall Sperling.

12:15 p.m. Members Luncheon Honoring New 25-Year and 50-Year Members (Marriott)

Featuring: Gerard E. Lynch, U.S. Court of Appeals for the Second Circuit

1:45 p.m. Special 100th Anniversary Program - A Centennial History

Featuring: Andrew Gold, Brooklyn Law School, and Robert W. Gordon, Stanford Law School (moderator); Richard RW. Brooks, New York University School of Law; Deborah A. DeMott, Duke University School of Law; and G. Edward White, University of Virginia School of Law

3:15 p.m. Torts: Remedies

7:00 p.m. Annual Reception and Dinner (National Building Museum)

Presentation of the Henry J. Friendly Medal to Chief Justice of the United States John G. Roberts, Jr., by Supreme Court Associate Justice Elena Kagan

WEDNESDAY, MAY 24

8:30 a.m. ALI Early Career Scholars Program
Presentation by Francis X. Shen, Harvard Law School and Harvard Medical School

9:00 a.m. Conflict of Laws

10:30 a.m. 100th Anniversary Program: Role of Technology in Dispute Resolution and Access to Justice

Featuring: David Freeman Engstrom, Stanford Law School (moderator); Bridget Mary McCormack, American Arbitration Association International Centre for Dispute Resolution; Colin Rule, Mediate.com and ODR.com; and Rebecca L. Sandefur, Arizona State University

12:00 p.m. Members Luncheon
Featuring: Harold Hongju Koh, Yale Law School

1:15 p.m. Government Ethics

3:30 p.m. Meeting Adjourns

As of March 21



ANNUAL DINNER AND RECEPTION AT THE NATIONAL BUILDING MUSEUM

Location: 440 G Street NW
Please join us as we get together to celebrate our 100th Anniversary. A round trip shuttle bus is available from The Ritz-Carlton. The first shuttle departs the hotel at 6:15 p.m., and will return to The Ritz-Carlton upon the conclusion of this event.
The reception will begin at 7:00 p.m. Dress is business attire or semi-formal.
Tickets are \$125 per person.

WEDNESDAY MEMBERS LUNCHEON

Join us at this lunch event on the final day of the Annual Meeting, to be held at Salon III at the Ritz-Carlton Ballroom. Luncheon speaker and ALI Council Member Harold Hongju Koh, Sterling Professor of International Law at Yale Law School, will speak on the topic of law and the Russian-Ukraine War.
Tickets are \$65 per person.

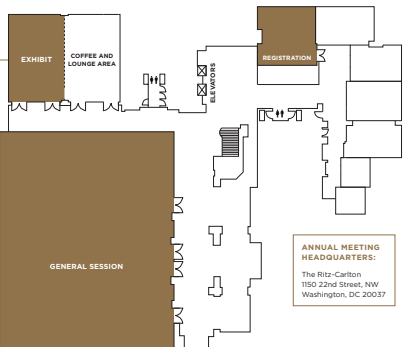
Register online now at www.ali.org/AM2023

The ALI Exhibit: Looking Back at Our First Century

This year's Annual Meeting will be more than working together to successfully move several ongoing projects forward. We will both be reflecting on the milestones achieved during the Institute's first century, as well as looking ahead at the future of the Institute and the future of the law. You can reflect on the Institute's first 100 years by visiting our ALI Exhibit, which will be located in the Plaza Ballroom, adjacent to main Ballroom. The exhibit will be on display on Sunday, May 21 through Wednesday morning, May 24. From our founding, to our long-standing relationships with the Supreme Court of the United States, to our contribution to human rights and international affairs, walk through the exhibit and discover something new about the Institute.



A smaller version of the ALI History Exhibit traveled to several law schools this year.



Roadmap of the Annual Meeting Project Sessions

Attending the Annual Meeting is an amazing opportunity to see what ALI is really about, to be reminded of the importance of, and to reinforce your commitment to, the rule of law. There is something incredible that happens when the wisdom of our membership comes together.

Whether it's your first or 15th time at the Annual Meeting, participating in the project session discussions may feel daunting, but it shouldn't be. The information below will hopefully inspire all members to join in the discussion.

PREPARING FOR THE MEETING

Annual Meeting drafts are available to ALI members and project participants in advance of the Meeting. Electronic versions of drafts will be posted on our website, and you will be notified by email when each draft is available.

You don't have to wait until the Meeting to submit comments on drafts. Visit the Projects page of the ALI website to submit comments on a draft prior to the Meeting.

If you'd like to submit a motion on a project, please do so well in advance of the Annual Meeting in order to give Reporters and other members an opportunity to consider it carefully. Instructions on submitting motions can be found on the Drafts page of the Annual Meeting website.

Comments and motions to Annual Meeting drafts are posted for member review on each project's page.

REGISTRATION

Upon arrival you should check in at the Registration Desk. Here you will receive your badge which serves as your voting badge should the need for a hand count arise.

ENTERING THE BALLROOM

Each day, print copies of project drafts are available near the Ballroom entrance. There are a limited number of print copies available. If you requested a copy be mailed to you, please bring it with you to the Meeting, or consider downloading the electronic version.

The drafts table will also include copies of motions. Even if you bring your draft with you, be sure to check the table for additional documents. But, please do not place any materials on this table. Last-minute motion filings must be delivered to the Registration Desk, where staff can help you ensure that you have met the submission requirements.

PROJECT SESSIONS IN THE BALLROOM

Each project session is moderated by an ALI Council member-chair, who will announce each section that is up for discussion. Members interested in commenting on that particular section should make their way to a numbered microphone. When called upon by number, members are asked to identify themselves by stating their name, city, and state, and then offering their comments.

Members are afforded a specific amount of time to comment, which is tracked by a light in front of the dais. During and at the end of discussion, you will hear members, the chair, or Reporters mention the Boskey motion.

THE BOSKEY MOTION

Named for longtime ALI Treasurer Bennett Boskey, this motion is made to approve a draft, or portions of a draft by membership at an Annual Meeting. A standard structure of the Boskey motion is: "I move we approve [draft] subject to today's discussion and the usual editorial prerogatives."

The Boskey motion seeks member approval on a draft, subject to any requested changes to which the Reporters agreed or any motions that passed during the course of the Meeting, as well as general, nonsubstantive edits that may be required before publishing. It does not permit substantive edits by Reporters beyond the scope of the Meeting discussion.

If time allows for the entire draft to be fully discussed, a Boskey motion will be made to approve the full draft in light of the Annual Meeting discussion, any motions that have passed, and allows for any necessary minor editorial changes.

If the time allotted on the agenda expires before the entire draft is discussed, a Boskey motion may be made for any sections that were fully vetted by the members.

Voting usually is by voice vote. Voting by show of hands is at the presiding officer's discretion. When voting by show of hands, members must hold up their badges, with the back of the badge displayed.

LEARN MORE about the Boskey Motion from ALI 2nd Vice President Teresa Wilton Harmon by scanning the QR code.



Founding of The American Law Institute

In the early 1920s, a group of prominent jurists, lawyers, and law professors gathered in Cambridge, Massachusetts, to discuss the need for a new, more uniform set of laws. The group, known as the "Drafting Committee," was led by Oliver Wendell Holmes Jr., Chief Justice of the Supreme Court, and included other leading figures of the legal profession. They met in the halls of the Harvard Law School, and their work was supported by the American Bar Association and the American Law Institute.

According to the Committee, their work was a "renewal of a part of the law" and a "statement of the law as it is." They sought to create a set of laws that would be "clear, concise, and comprehensive," and that would be "based on the best of the law as it is."

"We speak of the work which the organization should undertake as a restatement, its object should not only be to help make certain much that is now uncertain and to simplify unnecessary complexities, but also to promote those changes which will tend better to adapt the laws to the needs of life."

Statement of Essential Human Rights

In the early 1940s, the American Law Institute issued a statement of essential human rights. This statement was a landmark document that set forth the principles of human rights that are fundamental to the American legal system. It was based on the Declaration of Independence and the Constitution, and it was intended to guide the development of laws and policies that would protect these rights.

The statement includes 18 articles that define the rights of all individuals, regardless of race, religion, or social status. These rights include the right to life, liberty, and the pursuit of happiness, as well as the right to a fair trial and the right to be free from government oppression.

- Article 1. Freedom of Religion
- Article 2. Freedom of Opinion
- Article 3. Freedom of Speech
- Article 4. Freedom of Assembly
- Article 5. Freedom to Form Associations
- Article 6. Freedom from Wrongful Interference
- Article 7. Fair Trial
- Article 8. Freedom from Arbitrary Detention
- Article 9. Retroactive Laws
- Article 10. Property Rights
- Article 11. Education
- Article 12. Work
- Article 13. Conditions of Work
- Article 14. Food and Housing
- Article 15. Social Security
- Article 16. Participation in Government
- Article 17. Equal Protection
- Article 18. Limitations on Exercise of Rights



Model and Uniform Codes

Model or uniform codes or statutes and other statutory proposals are addressed to legislatures, with a view toward legislative enactment. They are written in prescriptive statutory language. Two of ALI's most influential works are Codes: The Model Penal Code and the Uniform Commercial Code.



Principles of the Law

Principles are primarily addressed to legislatures, administrative agencies, or private actors. They can, however, be addressed to courts when an area is so new that there is little established law.





The American Law Institute 2022-2023 Annual Report

Current Projects

Restatement of the Law, Children and the Law

This Restatement deals comprehensively with the legal regulation of children, rather than solely with family-law matters. The project has four Parts—Children in Families, Children in Schools, Children in the Justice System, and Children in Society. At the 2023 Annual Meeting, the membership voted to approve Tentative Draft No. 5, which contains material from Chapter 1, Parental Authority and Responsibilities, Chapter 2, State Intervention for Abuse and Neglect, and Chapter 3, Child in Need of Services, of Part I on Children in Families; Chapter 5, Delinquency Proceedings, of Part III on Children in the Justice System and Chapter 18, Minors' Civil Rights and Civil Liberties Outside the School Context, and Chapter 20, Minors' Obligations and Responsibilities, of Part IV on Children in Society.

Reporter:
Elizabeth S. Scott, Columbia Law School, New York, NY

Associate Reporters:
Richard J. Bonnie, University of Virginia School of Law, Charlottesville, VA
Emily Bass, University of Chicago Law School, Chicago, IL
Clare Huntington, Columbia Law School, New York, NY
Solangel Maldonado, Seton Hall University School of Law, Newark, NJ

Restatement of the Law Third, Conflict of Laws

This project reexamines the increasingly important subject of conflict of laws in light of significant legal developments in the field since the influential Restatement Second was published in 1971. The project will include Chapters on Domicile, Judicial Jurisdiction, Recognition and Enforcement of Judgments, and Choice of Law, among others. At the 2023 Annual Meeting, the membership voted to approve Tentative Draft No. 4, which includes material from Chapter 6, Torts; Chapter 7, Property; and Chapter 8, Contracts. A motion to amend § 6.03 passed.

Reporter:
Kenneth Roosevelt III, University of Pennsylvania Carey Law School, Philadelphia, PA

Associate Reporters:
Ann L. Estlin, University of Iowa College of Law, Iowa City, IA
Laura Elizabeth Little, Temple University Beasley School of Law, Philadelphia, PA
Christopher A. Whytock, University of California, Irvine School of Law, Irvine, CA



Restatement of the Law, Corporate Governance



Restatement of the Law, Children and the Law



Restatement of the Law, Copyright

Restatement of the Law, Copyright

The goal of this Restatement is to provide guidance to the courts in areas, including ones that have clear common-law origins, in which there is significant scope for judicial discretion. At the 2023 Annual Meeting, the membership voted to approve Tentative Draft No. 4, which contains portions of Chapter 4, Copyright Formalities; Chapter 5, Duration of Copyright; Chapter 6, Copyright Rights and Limitations; and Chapter 7, Copyright Infringement.

Reporter:
Christopher Jon Sprigman, New York University School of Law, New York, NY

Associate Reporters:
Daniel J. Gervais, Vanderbilt University Law School, Nashville, TN
Lydia Pallas Loren, Lewis & Clark Law School, Portland, OR
R. Anthony Reese, University of California, Irvine School of Law, Irvine, CA
Holly S. Van Houweling, University of California, Berkeley School of Law, Berkeley, CA

Restatement of the Law, Corporate Governance

The Institute first tackled the subject of corporate governance more than 25 years ago in Principles of the Law, Corporate Governance: Analysis and Recommendations. Although it provided valuable guidance in a new and unfamiliar area of law at the time, this area has evolved quite a bit in the intervening decades. This project was not presented at the 2023 Annual Meeting.

Reporter:
Edward B. Rock, New York University School of Law, New York, NY

Associate Reporters:
Elisabeth de Fontenay, Duke University School of Law, Durham, NC
Marcel Kahan, New York University School of Law, New York, NY



Restatement of the Law Third, Torts: Defamation and Privacy

Restatement of the Law Fourth, Property

This Restatement seeks to bring comprehensiveness and coherence to American property law. Subjects to be covered include the classification of entitlements, possession, accession, and acquisition; ownership powers; protection of and limits on ownership; divided and shared ownership; title and transfer; easements, servitudes, and land use; and public rights and takings. At the 2023 Annual Meeting, the membership voted to approve Tentative Draft No. 4 through Volume 7, Division 1, Chapter 5. There was insufficient time to discuss Chapters 6 and 7 of Volume 7, Division 1. A motion to amend § 1.2A of Volume 2, Division 1, Chapter 1 was withdrawn after the Reporters presented edits to § 1.2A in response to the motion.

Reporter:
Henry E. Smith, Harvard Law School, Cambridge, MA

Associate Reporters:
Molly E. Brady, Harvard Law School, Cambridge, MA
Sara C. Bronia, Cornell University, Ithaca, NY
Richard B.W. Brooks, New York University School of Law, New York, NY
Yan-Chen Chang, Cornell Law School, Ithaca, NY
R. Wilson Freyeremuth, University of Missouri School of Law, Columbia, MO
John C.F. Goldberg, Harvard Law School, Cambridge, MA
Brian A. Lee, Brooklyn Law School, Brooklyn, NY
Thomas W. Merrill, Columbia Law School, New York, NY
Christopher H. Newman, George Mason University, Antonin Scalia Law School, Arlington, VA



Restatement of the Law Third, Torts: Miscellaneous Provisions

Restatement of the Law Third, Torts: Defamation and Privacy

This project is part of ALI's ongoing revision of the Restatement Second of Torts. This Restatement addresses torts dealing with personal and business reputation and dignity, including defamation, business disparagement, and rights of privacy. Among other issues, the updates will cover the substantial body of new issues relating to the internet. To date, three Preliminary Drafts have been presented in project meetings.

Reporters:
Lyttisa Bennett Lidsky, University of Florida, Levin College of Law, Gainesville, FL
Robert C. Post, Yale Law School, New Haven, CT



Restatement of the Law Third, Torts: Remedies

THE ALI Reporter

THE QUARTERLY NEWSLETTER OF THE AMERICAN LAW INSTITUTE

VOLUME 45 NUMBER 3 SUMMER 2023



Actions Taken at the 2023 Annual Meeting

All approvals by ALI's membership at the Annual Meeting are subject to the discussion at the Meeting and the usual editorial prerogative.

CHILDREN AND THE LAW

Membership voted to approve Tentative Draft No. 5, which contains material from Chapter 1, Parental Authority and Responsibilities, Chapter 2, State Intervention for Abuse and Neglect, and Chapter 3, Child in Need of Services, of Part I on Children in Families; Chapter 11, Delinquency Proceedings, of Part III on Children in the Justice System; and Chapter 18, Minors' Civil Rights and Civil Liberties Outside the School Context, and Chapter 20, Minors' Obligations and Responsibilities, of Part IV on Children in Society.

CONFLICT OF LAWS

A motion to amend § 403 passed. Membership voted to approve Tentative Draft No. 4, which includes material from Chapter 6, Torts; Chapter 7, Property; and Chapter 8, Contracts.

Annual Meeting coverage continues on page 2.

Now Available:
Restatement of the Law, The U.S. Law of International Commercial and Investor-State Arbitration

Model Penal Code: Sentencing

SEE PAGES 22-23 FOR MORE INFORMATION.

THE DIRECTOR'S LETTER BY DIANE P. WOOD

It brings me great pleasure to write to you in my now-official capacity as Director of The American Law Institute.

The ALI is a special institution in American Law and American life. At this year's Annual Meeting, I shared with everyone the story of my earliest impressions of the Institute after becoming a member. (Even before then, as a student of the renowned Charles Alan Wright, I knew that the ALI sat at the pinnacle of American law.) At my first Annual Meeting, as people approached the microphone and offered in-depth comments on a single section, or even a single line, of a draft, I remember thinking, "Everyone here is working hard. They're paying such careful attention to the work product of the Institute." And I have seen the same thing year after year: the deliberate and thoughtful nature of our work, the selfless time commitment of our members, and the collegiality to which we adhere, even when we disagree; very rare and precious traditions in our fast-paced, politicized, and polarized times.

All of these traditions were on display at this year's Annual Meeting, where we celebrated ALI's 100th Anniversary. What a remarkable and fitting celebration it was! The membership did its usual hard and excellent project work, reviewing drafts from seven separate projects and approving Principles of the Law, Government Ethics, marking that project's completion. We also looked back at what the Institute accomplished in our first 100 years with a discussion about our centennial history book and a museum-quality display honoring the Institute and its members' accomplishments dating back to 1923. We honored some of our most distinguished and respected members and inducted two outstanding law faculty to the stage. We looked toward the future, hosting distinguished panels for discussion on the topics of social media and democracy, artificial intelligence, technology, and access to justice. (For detailed coverage of the 2023 Annual Meeting, see pages 1-21.) And we were honored to have Justice Elena Kagan present the Henry J. Friendly

continued on page 3

Now Available: Restatement of the Law, The U.S. Law of International Commercial and Investor-State Arbitration

The Restatement of the Law, The U.S. Law of International Commercial and Investor-State Arbitration, the first such project for the Institute, identifies the role of the courts over the life cycle of an arbitral proceeding, including enforcement of the arbitration agreement, the judicial role in arbitral proceedings, and post-award relief. It also addresses the ways in which the basic principles governing U.S. court involvement in investor-State arbitration in some instances are different from those applicable to international commercial arbitration generally.

Work began in 2007 under the leadership of Reporter George A. Bermann of Columbia Law School and Associate Reporters Jack J. Coe, Jr., of Pepperdine University School of Law, Christopher B. Drahozal of the University of Kansas School of Law, and Catherine A. Rogers of Università Bocconi.

"The Restatement assumes a choice has been made to have the merits of a dispute resolved in an arbitral setting rather than a court setting, but you haven't escaped the courts," said Professor Bermann. "Our Restatement focuses on what courts are asked to do and, among the things they're asked to do, what they are willing to do. Essentially, we have three phases in the life cycle of an arbitration where a court is invited to intervene: handling the arbitration, arbitral proceedings, and post-award."



George A. Bermann, Christopher B. Drahozal, Catherine A. Rogers and Jack J. Coe, Jr., 2023 Annual Meeting

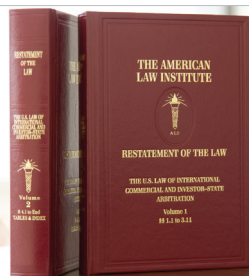


Cedric C. Chau of Chau ADR PC, 2017 project meeting; Jeffrey D. Kiser of the U.S. Department of State, 2017 project meeting



Linda J. Silberman of New York University School of Law, 2018 project meeting

Restatement of the Law, The U.S. Law of International Commercial and Investor-State Arbitration and Model Penal Code: Sentencing are both available for purchase on www.ali.org.



Model Penal Code: Sentencing Is Now Available

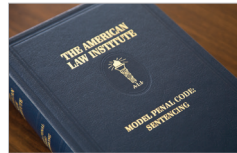
The new available Model Penal Code: Sentencing book recastimates the sentencing provisions of the 1962 Model Penal Code in light of the many changes in sentencing philosophy and practice that have taken place since its original publication.

The project was led by Reporter Kevin R. Reitz of the University of Minnesota Law School and Associate Reporter Cecilia M. Klingele of the University of Wisconsin.

The Sentencing project provides guidance on some of the most important issues that courts, corrections systems, and policymakers are facing today, including the general purposes of the sentencing system; rules governing sentence severity—including sentences of incarceration, community supervision, and economic penalties; the elimination of mandatory minimum penalties; mechanisms for combating racial and ethnic disparities in punishment; instruments of prison population control; collateral consequences, including guidelines, notification, and order of relief; victims' rights in the sentencing process; the sentencing of juvenile offenders in adult courts; the creation of judicial powers to review many collateral consequences of conviction; and many issues having to do with judicial sentencing discretion, sentencing commissions, sentencing guidelines, and appellate sentence review.

In 2009, after Professors Carol S. Steiker of Harvard Law School and Jordan M. Steiker of the University of Texas School of Law produced the "Report to the ALI Concerning Capital Punishment," the Institute withdrew Section 2101 of the Model Penal Code "in light of the current intractable institutional and structural obstacles to ensuring a minimally adequate system for administering capital punishment."

"As a matter of recent history in this country, we're at quite an important moment, where the conversation and political attitudes towards criminal justice policy and sentencing policy have been shifting dramatically at the state level," said Professor Reitz upon the project's completion. "Despite current uncertainties in the federal government, legislators, policymakers, and lawmakers in state and local criminal justice systems are searching for workable solutions to problems of mass punitiveness that have grown since the 1970s. This moment in history is particularly fortuitous for the Model Penal Code because we are arriving at the point of completion just as this new or changed nationwide debate is occurring. For lawmakers, judges, and corrections leaders, we can provide the tools they will need to create important and lasting sentencing reforms in their jurisdictions."



Kevin R. Reitz and Cecilia M. Klingele, 2017 Annual Meeting



2015 project meeting



Miriam A. Krinsky of Fair and Just Prosecution, 2016 Annual Meeting; Raymond J. Lohr Jr. of U.S. Court of Appeals for the Second Circuit, 2017 Council meeting



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Annual Meeting Cancellation

The cancellation of the 2020 Annual Meeting is only the second time in ALI history that an Annual Meeting has been cancelled. The first was in 1945, due to World War II. At the time, Director Lewis explained the decision: "It is not that there are no matters of importance which would be taken up at such a meeting, but our war conditions and the statement of James P. Byrnes rightly prohibits any large meeting not directly connected with the war effort."

At the Annual Meeting each year, ALI members gather to review, discuss, and approve drafts as well as approve ALI leadership changes. So how does the cancellation affect the work and business of the Institute?

Project Drafts

With no Annual Meeting, no draft content could be approved by the membership this year. However, our dedicated members still submitted comments on these drafts, which will guide the Reporters as they improve the drafts for member review at a future Annual Meeting. It is our hope that with the incorporation of members' comments, we will have an efficient 2021 Annual Meeting.

ALI leadership recognizes that these drafts will still require adequate time on the agenda, so ALI is planning to hold an extended 2021 Annual Meeting. With an additional day on the 2021 agenda, and potentially again in 2022, we hope to make up for lost time.

The State of the Institute

Each year, ALI's Annual Meeting includes a session with business reports from ALI leadership. Now more than ever, it is important that our membership remains updated on matters of the Institute, including how our work continues during this time.

That is why, despite the cancellation of this year's Annual Meeting, ALI has prepared a video on this year's business reports. This video was released on June 8, 2020.

President David F. Levi opens the video with an important statement, as well as an overview of the state of the Institute. He then introduces the executive members and committee chairs as they provide their reports on Institute matters.

The following are listed in the order in which they presented:

- Richard L. Revesz, Director
- Roberta Cooper Ramo, Immediate Past President and 100th Anniversary Committee Co-Chair
- Stephanie A. Middleton, Deputy Director
- Teresa Wilton Harmon, Membership Committee Chair
- Wallace B. Jefferson, Treasurer
- Steven C. Weisk, Investment Committee Chair
- Judith A. Miller, Development Committee Chair
- Anthony J. Scirica, Nominating Committee Chair

Watch the video now on the ALI website at www.ali.org/news/state-of-institute.

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Membership

The Membership Committee and the Council are committed to fostering a membership that will reflect the broad diversity of the legal profession in the United States and abroad, including with regard to (but not limited to) age, gender, race, ethnicity, expertise, geographic region, viewpoints, and type and size of practice or other professional work. The overall goal is to ensure a membership that will keep the Institute a vibrant, relevant, and distinguished membership organization as it carries out its mission throughout the 21st century. Candidates for elected membership must have demonstrated exceptional professional achievement, outstanding personal character, and an avid interest in law reform.

During the 2019-2020 fiscal year, 155 distinguished legal professionals were elected upon accepting the nomination and committing to participate in our work. Members make invaluable contributions to our law-reform efforts by donating their time and expertise in numerous areas of the law. As of June 30, 2020, ALI membership included 2,802 elected members, 1,630 life members (a status achieved after 25 years of service to the Institute), 246 ex officio members, and two honorary members. While ex officio members are generally considered members only during the time they hold a specific office or position, the Chief Justice and Associate Justices of the Supreme Court of the United States are ex officio members for life.

MEMBERS BY CATEGORY

Includes Elected, Elected & Ex Officio, Life, Honorary, and Ex Officio

- 37% ATTORNEYS IN PRIVATE PRACTICE
- 37% ACADEMICS
- 14% JUDGES
- 12% CORPORATE, GOVERNMENT, AND NONPROFIT ATTORNEYS

155 NEW MEMBERS

- 46 30% ACADEMICS
- 44 28% ATTORNEYS IN PRIVATE PRACTICE
- 37 24% JUDGES
- 28 18% CORPORATE, GOVERNMENT, AND NONPROFIT ATTORNEYS

CURRENT MEMBERSHIP	
Elected Members	2,802
Life Members	1,630
Ex Officio Members	246
Honorary Members	2
Total ALI Membership	4,680

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The Story of ALI

This year The American Law Institute launched an online timeline that explores the rich history of the Institute from its founding in 1923 to its most recent publications.

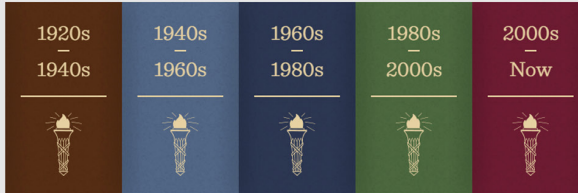
Visit the About page on ALI's website and click on History of ALI to read about all of the Institute's publications, Presidents, and Directors; learn about ALI's involvement in the Statement of Essential Human Rights or discover when the Institute first implemented Members' Committee Groups; and watch videos that explore some of the most influential work of the Institute, including the Model Penal Code, Prudent Investor Rule, Uniform Commercial Code; and Restatement of the Law Second, Foreign Relations Law of the United States.

Learn more about the Institute's Presidents, Directors, and Publications.

Watch videos that explore some of the most influential work of the Institute.



The Story of ALI



1923

Founding of The American Law Institute

In the early 1920's, a group of prominent American judges, lawyers, and law professors formed "The Committee on the Establishment of a Permanent Organization for the Improvement of the Law," led by Elihu Root, George Wickersham, and William Draper Lewis. The Committee reported to the members of the legal profession that the "law is unnecessarily uncertain and complex," and as a result, there is a "general dissatisfaction with the administration of justice."

According to the Committee, the law's uncertainty stemmed in part from a lack of agreement on fundamental principles of the common law, while the law's complexity was attributed to the numerous variations within different jurisdictions.

CONTINUE READING →

1928

"A Permanent Organization for the Improvement of the Law"

In 1928, ALI Director William Draper Lewis submitted to the Executive Committee of ALI "The Future of the Institute: Report No. 1 on Things to be Considered and How We Should Proceed to Consider Them." The report makes it clear that Lewis assumed and intended the Institute to be permanent.

In this video, Nathan L. Hecht, Chief Justice of the Texas Supreme Court, explains common law and how it may change over time, necessitating future ALI work.



Nathan L. Hecht

CONTINUE READING →

1931

Tentative Draft Sales Reported

Although the Institute had yet to publish a Restatement, the volume of sales of Tentative Drafts and of the Code of Criminal Procedure reflected that the Institute's work, even in its early stages, was regarded with respect by the legal community.

It was understood at this stage that drafts were tentative and not final. Nevertheless, lawyers were purchasing these drafts and using them in preparing briefs. Judges.

CONTINUE READING →

"The preparation of an adequate Restatement of any Subject is a long and arduous task. There is no short cut."

ALI DIRECTOR WILLIAM DRAPER LEWIS
1929 ANNUAL REPORT

PRESIDENTS


DIRECTORS

PUBLICATIONS

George W. Wickersham

William Draper Lewis

reasonably speaking



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SEASON 1

Race and Policing



In this episode Sherrilyn Ifill of the NAACP Legal Defense and Educational Fund, Inc., Barry Friedman, New York University Law professor and director of NYU's Policing Project, and John Malcolm of the Heritage Foundation explore the intersection of race and policing in the United States. This episode looks at the history of race relations in the U.S., and the resulting impact on law enforcement practices, including implicit and overt biases that have created ongoing racial disparities.



Listen as these experts, who currently are on the front lines (an advocate and civil rights lawyer, a civil liberties lawyer whose current work is with communities and police departments, and the director of a think tank tasked with increasing government officials', the media's, and the public's understanding of the Constitution and the rule of law), discuss new policing technologies, as well as new theories about public policy that may help shape the future of race and policing.



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FEATURED SPEAKERS




Sherrilyn Ifill
NAACP Legal Defense and Educational Fund, Inc.

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Barry Friedman
New York University School of Law

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John Malcolm
The Heritage Foundation

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SUPPLEMENTARY RESOURCES

- [NAACP LEGAL DEFENSE AND EDUCATIONAL FUND RESOURCE](#)
Explore this extensive database supported by the LDF which includes cases and issues and can be sorted by area of impact.
- [UNWARRANTED: POLICING WITHOUT PERMISSION BY BARRY FRIEDMAN](#)
June 2013, documents leaked by Edward Snowden sparked widespread debate about secret government surveillance of Americans. Just over a year later, the shooting of Michael Brown, a black teenager in Ferguson, Missouri, set off protests and triggered concern