

# Gary Born

**Gary B. Born** (born September 14, 1955) is an international lawyer and academic. He is chair of the International Arbitration and International Litigation practices at the international law firm, Wilmer Cutler Pickering Hale and Dorr LLP, and the author of a number of commentaries, casebooks and other works on international arbitration and litigation.

Gary Born	
<b>Born</b>	<span>Gary B. Born</span> <div>September 14, 1955 (age 65)</div> United States
<b>Occupation</b>	lawyer, author

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## Early life

Born attended primary schools in France and Germany and completed his secondary education in the US. He received a bachelor's degree *summa cum laude* from Haverford College in 1978 and a J.D., *summa cum laude* from the University of Pennsylvania Law School in 1981.

Born served as a law clerk to the Hon. Henry J. Friendly, US Court of Appeals for the Second Circuit (1981–1982) and the Hon. William H. Rehnquist, US Supreme Court (1982–1983). Born has practiced with Wilmer Cutler Pickering Hale and Dorr LLP in London for the past three decades and has taught international dispute resolution at law schools in Europe, the United States and Asia.<sup>[1]</sup>

## Academic influence on international dispute resolution

Born has published numerous works in the fields of both international arbitration and international litigation. These works have contributed to the development of both areas as independent fields of legal study and practice.

Born's treatise on *International Commercial Arbitration* (<https://www.amazon.com/dp/9041127593?keywords=gary+born>) is cited as the standard text in the field of international arbitration.<sup>[2]</sup> *International Commercial Arbitration* provides a treatment of the subject of international commercial arbitration and proposes theories regarding the global legal regime for international arbitration and the constitutional status of the 1958 New York Convention (United Nations Convention on Recognition and Enforcement of Foreign Arbitral Awards).

Born has also written on international litigation. His commentary and materials on *International Civil Litigation in United States Courts* (<https://www.amazon.com/dp/0735507554?keywords=gary+born>) is in its fifth edition. The work is a reference work on international litigation and is credited with having created the field in the United States:<sup>[a]</sup> "[w]hen the first edition appeared, it broke new ground...[It was the] first case book on transnational litigation in the United States, and the first reference work in this area with its level of analytical depth and breadth of coverage."<sup>[3]</sup> *International Civil Litigation* is frequently relied upon by US judicial decisions, including the US Supreme Court and various Courts of Appeals.<sup>[b]</sup>

Born has also authored casebooks on international arbitration (including *International Arbitration: Cases and Materials* (Aspen 2010) (<https://www.amazon.com/dp/0735507961?keywords=gary+born>) and *International Commercial Arbitration: Commentary and Materials* (Kluwer 2001) (<https://www.amazon.com/dp/1571051740?keywords=gary+born+international+commercial+arbitration>)) and works on international dispute resolution (including *International Arbitration and Forum Selection Agreements: Drafting and Enforcing* (Kluwer 4th ed. 2013) (<https://www.amazon.com/dp/9041125280?keywords=gary+born+international+commercial+arbitration>) and *International Arbitration: Law and Practice* (Kluwer 2012) (<https://www.amazon.com/dp/9041145621?keywords=gary+born+law+and+practice>)).

Born's treatise *International Commercial Arbitration* was awarded the American Society of International Law's Certificate of Merit for 2010<sup>[4]</sup> and was voted the 2009 "IDR-Related Book of the Year" by the Oil-Gas-Energy-Mining-Infrastructure Dispute Management (OGEMID) network.<sup>[5]</sup> Born again received the OGEMID "Book of the Year" award in 2010 for his *International Arbitration and Forum Selection Agreements: Drafting and Enforcing*.<sup>[5]</sup>

## Representations

Born is an advocate in the fields of international arbitration, international litigation and public international law. He has participated in more than 600 international arbitrations, including several of the largest institutional and ad hoc arbitrations in recent decades (see below). In 2006, Born was chosen by his peers as the "World's Best International Litigator" in a survey by Legal Media Group.<sup>[c]</sup> Born was the recipient of the inaugural "Advocate of the Year" award by the Global Arbitration Review in 2011<sup>[6]</sup> and the ILO Client Choice Award for International Arbitration Lawyer of the Year in 2012 and 2014.<sup>[7]</sup>

Born has represented a diversity of clients. Born has represented multinational corporate groups in a number of major international commercial and other arbitrations during the past decade. These included disputes involving Deutsche Telekom<sup>[8]</sup> and Vivendi and France Telecom, Repsol and Atlantic LNG 2/3, Shell Petroleum, Volkswagen, and others.<sup>[9]</sup>

Born acted as lead counsel in the Abyei Arbitration, conducted under the auspices of the Permanent Court of Arbitration in the Hague at the Peace Palace. He represented the Sudan People's Liberation Movement/Army ("SPLM/A") in the arbitration, implementing the 2005 Comprehensive Peace Agreement, between the Government of Sudan and SPLM/A. The Abyei Arbitration had its oral hearings being open to the public and web-cast live around the world. Born's closing submissions in the Arbitration and the Tribunal Award can be viewed on the PCA's website.<sup>[10]</sup> Born represented the State of Eritrea against Yemen in an arbitration under PCA auspices concerning territorial sovereignty over a number of islands in the Red Sea. Born also represented Greenpeace in an arbitration against the Republic of France, concerning the Rainbow Warrior incident. The arbitration concluded with an award of damages in favor of Greenpeace.<sup>[11]</sup>

Born has sat as arbitrator in institutional and ad hoc arbitrations, including both international commercial and investment arbitrations. Born was a member of the arbitral tribunal in Biwater Gauff v. Republic of Tanzania, which issued an order setting forth guidelines on transparency and confidentiality in investor-state arbitrations.<sup>[12]</sup>

## Professional and academic activities

Born has taught courses on international arbitration, international litigation or public international law at Harvard Law School,<sup>[13]</sup> Stanford Law School,<sup>[14]</sup> St. Gallen University,<sup>[15]</sup> National University of Singapore,<sup>[16]</sup> University of Peking, Tsinghua University, Georgetown University Law Center,<sup>[17]</sup> University of Virginia School of Law and elsewhere. Born was named the inaugural Kwa Geok Choo Distinguished Visitor in 2012 at the National University of Singapore's Law School,<sup>[18]</sup> and has been invited to deliver the James E.C. Brierley Memorial Lecture at McGill University<sup>[19]</sup> and the Goff Arbitration Lecture at the City University of Hong Kong. He has also been awarded honorary titles by leading universities, including St. Gallen (Professor) and Wayne State University (Doctor of Laws).<sup>[20]</sup> Mr. Born received the Haverford College Alumni Distinguished Achievement Award in 2013.

Born is a member of the American Law Institute and has served on the Executive Council of the American Society of International Law, and as co-chair of the ABA International Section, Committee on International Aspects of Litigation. He also is a member of the Advisory Committee for the ALI's Restatement of International Commercial Arbitration,<sup>[21]</sup> the ALI's Restatement (Fourth) of Foreign Relations Law,<sup>[22]</sup> the Board of Trustees of the British Institute of International and Comparative Law,<sup>[23]</sup> the Academic Council of the Institute for Transnational Arbitration,<sup>[24]</sup> the Advisory Board of the African International Legal Awareness,<sup>[25]</sup> the International Advisory Board of the Hong Kong International Arbitration Centre,<sup>[26]</sup> and the Indian Journal of Arbitration Law.<sup>[27]</sup> Mr. Born is a member of the Court of the Singapore International Arbitration Centre<sup>[28]</sup> and a Vice-President of the American Society of International Law.<sup>[29]</sup>

## Principal publications

### Books

- International Arbitration: Law and Practice (<https://www.amazon.com/dp/9041145621?keywords=gary+born>) (Kluwer 2012)
- International Arbitration: Cases and Materials (<https://www.amazon.com/dp/0735507961?keywords=gary+born>) (Aspen 2010)
- International Commercial Arbitration (<https://www.amazon.com/dp/9041127593?keywords=gary+born>) (Kluwer 2009)
- International Commercial Arbitration: Commentary and Materials (<https://www.amazon.com/dp/1571051740?keywords=gary+born+commentary+and+material>) (Kluwer 2d ed. 2001) (Kluwer 1st ed. 1996)
- International Arbitration and Forum Selection Agreements: Planning, Drafting and Enforcing (<https://www.amazon.com/dp/9041132694?keywords=gary+born+forum+selection>) (Kluwer 4th ed. 2013) (Kluwer 3d ed. 2010) (Kluwer 2d ed. 2006) (Kluwer 1st ed. 1999)
- International Civil Litigation in United States Courts (<https://www.amazon.com/gp/product/1454878711?keywords=gary+born+international+civil+litigation>) (Kluwer 6th ed. 2018) (5th ed. 2011) (4th ed. 2006) (with Bo Rutledge) (3d ed. 1996) (2d ed.1992) (1st ed. 1989)
- The Extraterritorial Application of National Laws (1987) (with D. Lange)

### Articles

- The United States Supreme Court and Class Arbitration: A Tragedy of Errors ([https://web.archive.org/web/20160303230242/http://www.wilmerhale.com/uploadedFiles/WilmerHale\\_Shared\\_Content/Files/Editorial/Publication/Born\\_Salas\\_final\\_proof\\_S12.pdf](https://web.archive.org/web/20160303230242/http://www.wilmerhale.com/uploadedFiles/WilmerHale_Shared_Content/Files/Editorial/Publication/Born_Salas_final_proof_S12.pdf)), 2012 J. Disp. Resol. 21 (2012)

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- [Confidentiality and Transparency in Commercial and Investor-State International Arbitration in \*The Future of Investment Arbitration\*](http://ukcatalogue.oup.com/product/9780195371802.do) (<http://ukcatalogue.oup.com/product/9780195371802.do>) (2009) (C. Rogers & R. Alford, eds)
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- [The Principle of Judicial Non-Interference in International Arbitral Proceedings](https://www.law.upenn.edu/journals/jil/) (<https://www.law.upenn.edu/journals/jil/>), 30 *U. Pa. J. Int'l L.* 999 (2009)
- [Towards A Uniform Standard of Validity of International Arbitration Agreements under the New York Convention, in \*Grenzüberschreitungen: Beiträge zum Internationalen Verfahrensrecht und zur Schiedsgerichtbarkeit—Festschrift fuer Peter Schlosser zum 70. Geburtstag\*](https://www.amazon.co.uk/dp/316148634X) (<https://www.amazon.co.uk/dp/316148634X>) (2005)
- [Planning for International Dispute Resolution](http://www.kluwerlawonline.com/toc.php?area=Journals&mode=bypub&level=5&values=Journals%7E%7EJournal+of+International+Arbitration%7EVolume+17+%282000%29) (<http://www.kluwerlawonline.com/toc.php?area=Journals&mode=bypub&level=5&values=Journals%7E%7EJournal+of+International+Arbitration%7EVolume+17+%282000%29>), 17 *J. Int'l Arb.* 61 (2000)
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- [Judicial Jurisdiction in International Cases](https://archive.is/20130616134411/http://law.uga.edu/georgia-journal-international-and-comparative-law-subscriptions) (<https://archive.is/20130616134411/http://law.uga.edu/georgia-journal-international-and-comparative-law-subscriptions>), 17 *Ga. J. Comp. & Int'l L.* 1 (1987)
- [Recent British Responses to the Extraterritorial Application of United States Law](https://web.archive.org/web/20110728164350/http://www.vjil.org/information/subscriptions) (<https://web.archive.org/web/20110728164350/http://www.vjil.org/information/subscriptions>), 26 *Va. J. Int'l L.* 91 (1985)

## Notes

- a. See Minear, *International Civil Litigation in United States Courts, Commentary and Materials* (Second Edition), 35 *Harv. Int'l. L. J.* 251 (1994) ("...a textbook that is defining the law school course of 'International Civil Litigation' in much the same way as Henry M. Hart, Jr. and Herbert Wechsler defined the course of 'Federal Courts.'"); Curtis A. Bradley and Jack L. Goldsmith III, *International Civil Litigation in United States Courts: Cases and Materials* (Second Edition), 34 *Va. J. Int'l L.* 233 (1993–1994) ("When *International Civil Litigation in the United States Courts* was first published in 1989, it was the only casebook (and one of the first hornbooks) to present a 'comprehensive treatment' of the 'emerging field' of international civil litigation. Now in its second edition, [Gary Born's *International Civil Litigation*] is recognized by many as the standard general work in the field... the best general hornbook on the subject."); McLachlan, *International Litigation and the Reworking of the Conflict of Laws*, *L.Q.R.* 2004, 120 (OCT), 580; Burbank, *The World in our Courts: Gary B. Born and David Westin, International Civil Litigation in United States Courts; Commentary and Materials*, 89 *Mich. L. Rev.* 1456 et seq. (1990–1991); Harold Hongju Koh, *International Civil Litigation in United States Courts*, 100 *Yale L.J.* 2347 (1990–1991) ("[t]he best current compendium' regarding international civil litigation."); American Society of International Law, *The Future of Transnational Litigation in US Courts: Distinct Field or Footnote?* Panel discussion at ASIL 101st Annual Meeting, 2007
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- c. See Legal Media Group's [Expert Guides](http://www.expertguides.com/) (<http://www.expertguides.com/>)

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3. Baumgartner, *Transnational Litigation in the United States: The Emergence of a New Field of Law*, 55 *Am. J. Comp. L.* 793 (2007) ("a tome that has been as useful to scholars and practitioners as it has been to law students, influencing the thinking of many, both in the United States and abroad")
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