

Public International Law Tutorial Reading List

Trinity Term 2016

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This syllabus is intended to prepare students for tutorials. Unless indicated as “optional,” all the readings are mandatory and assumed to have been completed before the relevant tutorial. Please regularly consult the general readings listed below – for supplementary material.

The weekly assignments will involve answering the questions listed below. For six of the eight tutorials, students are required to submit an essay of approximately 2,000-2,500 words. Instead of writing an essay, in the first week each student will need to prepare a short presentation on a legal case study, which I will explain and distribute in advance.

TOPICS

Week 1: International Law: A legal practitioner’s approach

Week 2: International Law: IR/IL scholarship beyond legal practice

Week 3: Emergence of International law

Week 4: Compliance theories – International Level

Week 5: Compliance theories – Domestic Level

Week 6: International Law and Power

Week 7: International Law and Inequality

Week 8: Application and Contestation

Assessment:

- **Participation (incl. presentations): 30%**
- **Essays: 70%**

Essays. Please send your essays by 5pm before the day of the tutorial to me and other students. The questions for these are given in this reading list at the beginning of each section. **There are seven essay topics in this syllabus. You are required to write six essays; you can choose which six essays to write.** In total, the essays will count for 70% of your grade.

Participation. The tutorials mainly consist of discussions of each week’s topic. Hence, your participation is key. Please make sure to complete all of the readings before the tutorials, so that we can have interesting discussions.

Grading. I will return your essays with a mark at the tutorial for which it is due and provide you with feedback in class.

GENERAL READING

Bederman, David. 2010. *International Law Frameworks*, 3rd edition. New York: Thomson Reuters/Foundation Press.

(This is a concise International Law Textbook, written for law students. It provides insights into a lawyer's approach to international law)

Dunoff, Jeffrey L. and Pollack, Mark A. (eds.). 2013. *Interdisciplinary Perspectives on International Law and International Relations: The State of the Art*. Cambridge: Cambridge University Press.

(This is a textbook written by international law and political science scholars. All of them look at international law from a political science perspective, asking how international law works rather than what it regulates. This is a cutting-edge textbook, which provides insights into the newest research and state of the discipline)

Reus-Smit, Christian, and Duncan Snidal (eds). 2008. *The Oxford Handbook of International Relations*. Oxford: Oxford University Press.

(Pithy chapters on the different theoretical approaches in International Relations and their ethical implications.)

N.B.: You may supplement the required readings with background/overview chapters from the general readings listed above if you would like to delve deeper into the topic.

WEEK 1: International Law: A legal practitioner's approach

Bederman, David. 2010. *International Law Frameworks*, 3rd edition. New York: Thomson Reuters/Foundation Press, p. 1-63 (read pages 34-37 and 52-56 particularly closely. These sections are particularly important for the Sealand case, which we will be discussing.)

Neff, Stephen C. 2014. "A Short History of International Law." In: Evans, Malcolm D. *International Law*. Oxford: Oxford University Press, pp. 3-28.

Statute of the ICJ, Arts. 38, 59.

Vienna Convention on the Law of Treaties, Arts. 31, 32, 41, 60, 62.

Case study: Sealand

Week 2: International Law: IR/IL scholarship beyond legal practice

What contribution (if any) does IR/IL scholarship that goes beyond legal interpretation make to the study of international law?

Abbott, Kenneth W., and Duncan Snidal. 2000. "Hard and Soft Law in International Governance." *International Organization*, vol. 54, no. 3, pp. 421-56.

Dunoff, Jeffrey L. and Mark A. Pollack. 2003. "International Law and International Relations: Introducing an Interdisciplinary Dialogue." In: Dunoff, Jeffrey L. and Mark A. Pollack (eds.). *Interdisciplinary Perspectives on International Law and International Relations*. Cambridge: Cambridge University Press, pp. 1-32.

Reus-Smit, Christian. 2009. "The politics of international law." In: Reus-Smit, Christian (ed.). *The Politics of International Law*. Cambridge: Cambridge University Press, pp. 14-44.

Schachter, Oscar. 1977. "The Invisible College of International Lawyers." *Northwestern University School of Law*, Vol. 72, No. 2., pp. 217-226.

Optional:

Abbott, Kenneth W., Robert O. Keohane, Andrew Moravcsik, Anne-Marie Slaughter, and Duncan Snidal. 2000. "The Concept of Legalization." *International Organization*, vol. 54, no. 3, pp. 401-19.

Brunnée, Jutta, and Stephen J. Toope. 2011. "Interactional international law: an introduction." *International Theory*, Vol. 3, Issue 2, pp. 307-318.

Note:

If you are interested in or require further information on International Relations theories, I recommend to consult The Oxford Handbook of International Relations (see above). The chapters on Realism, Neoliberal Institutionalism and Constructivism are most relevant.

WEEK 3: Emergence of International law

"International law emerges from states acting rationally to maximize their interests." (Goldsmith and Posner, p. 3). Discuss.

Abbott, Kenneth W. and Duncan Snidal. 2002. "Values and Interests: International Legalization in the Fight against Corruption," *Journal of Legal Studies*, Vol. 31, No. S1, pp. 141-178.

Finnemore, Martha, and Kathryn Sikkink. 1998. "International Norm Dynamics and Political Change." *International Organization*, Vol. 52, No. 4, pp. 887-917.

Goldsmith, Jack L. and Posner, Eric A. 2005. *The limits of international law*. Oxford: Oxford University Press, pp. 3-14.

March, James G. and Johan P. Olsen. 1998. "The Institutional Dynamics of International Political Orders," *International Organization*, Vol. 52, No. 4, pp. 943-969.

Putnam, Robert D. 1998. "Diplomacy and domestic politics: the logic of two-level games." *International Organization*, Vol. 42, No. 3, pp. 427-460.

Optional:

Abbott, Kenneth W. and Duncan Snidal (2013). "Law, Legalization, and Politics: An Agenda for the Next Generation of IR/IL Scholars." In Jeffrey L. Dunoff and Mark A. Pollack (eds.): *Interdisciplinary Perspectives on International Law and International Relations: The State of the Art*. New York: Cambridge University Press, pp. 33- 56.

WEEK 4: Compliance theories - International Level

Under what conditions is the good news about compliance good news about international law's influence on state behaviour?

Chayes, Abram, and Antonia Handler Chayes. 1993. "On compliance." *International Organization*, Vol. 47, No. 2, pp. 175-205.

Downs, George W., David M. Rocke, and Peter N. Barsoom. 1996. "Is the good news about compliance good news about cooperation?" *International Organization*, Vol. 50, No. 3, pp. 379-406.

Goodman, Ryan and Derek Jinks. 2004. "How to Influence States: Socialization and International Human Rights Law," *Duke Law Journal*, Vol. 54, No. 3, pp. 621-703. (see in particular the sections on "Acculturation", which is a concept Ryan and Jinks introduced)

Guzman, Andrew T. 2002. "A Compliance-Based Theory of International Law." *California Law Review*, Vol. 90, No. 6, pp. 1823-1887.

Martin, Lisa. 2013. "Against Compliance." In: Jeffrey L. Dunoff and Mark A. Pollack (eds.): *Interdisciplinary Perspectives on International Law and International Relations: The State of the Art*. New York: Cambridge University Press, pp. 591-612.

Optional

Brewster, Rachel. 2013. "Reputation in International Relations and International Law Theory." In: Jeffrey L. Dunoff and Mark A. Pollack (eds.): *Interdisciplinary Perspectives on International Law and International Relations: The State of the Art*. New York: Cambridge University Press, pp. 524- 543.

WEEK 5: Compliance theories – Domestic Level

Can domestic factors and non-state actors affect the acceptance of and compliance with international law? If so, how?

Checkel, Jeffrey T. 1998. "International Norms and Domestic Politics: Bridging the Rationalist-Constructivist Divide." *European journal of international relations* 3, no. 4 (1997): 473-495.

Keck, Margaret E., Sikkink, Kathryn. 1998 . *Activists beyond Borders: Advocacy Networks in International Politics*. Ithaca, New York: Cornell University Press. Introduction, pp. 1-38.

Koh, Harold H. 1996. "Transnational Legal Process." *Neb. L. Rev.*, Vol. 75, pp. 181-208.

Moravcsik, Andrew. 2013. "Liberal Theories of International Law." In: Jeffrey L. Dunoff and Mark A. Pollack (eds.): *Interdisciplinary Perspectives on International Law and International Relations: The State of the Art*. New York: Cambridge University Press, pp. 83-118.

Risse, Thomas and Sikkink, Kathryn. 1999. "The socialization of international human rights norms into domestic practices: introduction." In: Risse, Thomas, Stephen C. Ropp and Kathryn Sikkink. *The Power of Human Rights: International Norms and Domestic Change*. Cambridge: Cambridge University Press, pp. 1-38.

Simmons, Beth A. 2009. *Mobilizing for human rights: international law in domestic politics*. Cambridge: Cambridge University Press. Chapter 4: Theories of Compliance and Chapter 6: Equality for Women (empirical example).

WEEK 6: International Law and Power

Given the influence of powerful states, what contribution (if any) does international law make to international order?

Byers, Michael. 2003. "Preemptive Self-defense: Hegemony, Equality and Strategies of Legal Change." *Journal of Political Philosophy*, Vol. 11, No. 2, pp. 171--190.

Ikenberry, G. John and Kupchan, Charles A. "Socialization and hegemonic power." *International Organization*, Vol. 44, No. 3 (Summer, 1990): 283-315.

Jervis, Robert. (2003) 'The Compulsive Empire', *Foreign Policy*, 137, 83–7.

Krisch, N. 2005. International Law in Times of Hegemony: Unequal Power and the Shaping of the International Legal Order. *European Journal of International Law* 16 (3): 369–408.

Scott, Shirley V. 2004. "Is There Room for International Law in "Realpolitik"? Accounting for the US 'Attitude' Towards International Law." *Review of International Studies*, Vol. 30, No. 1, pp. 71--88.

WEEK 7: International Law and Inequality

Under what conditions can less powerful states influence and benefit from international law?

- Abbott, Kenneth W., and Duncan Snidal. 2004. "Pathways to International Cooperation." SSRN Scholarly Paper ID 730908. Rochester, NY: Social Science Research Network. <http://papers.ssrn.com/abstract=730908>.
- Bower, Adam. 2015. "Arguing with law: strategic legal argumentation, US diplomacy, and debates over the International Criminal Court." *Review of International Studies*, Vol. 41, Issue 02, pp. 337-360.
- Deitelhoff, Nicole and Linda Wallbott. 2012. "Beyond soft balancing: small states and coalition-building in the ICC and climate negotiations." *Cambridge Review of International Affairs*, Vol. 25, No. 3, pp. 345-366.
- Deitelhoff, Nicole. 2009. "The Discursive Process of Legalization: Charting Islands of Persuasion in the ICC Case." *International Organization*, Vol. 63, Issue 01, pp. 33-65.
- Fehl, Caroline. 2008. "Living with a Reluctant Hegemon: The Transatlantic Conflict Over Multilateral Arms Control." *European Journal of International Relations*, Vol. 14, No. 2, pp. 259-287.
- Fehl, Caroline. 2004. "Explaining the International Criminal Court: A 'Practice Test' for Rationalist and Constructivist Approaches." *European Journal of International Relations*, Vol. 10, No. 3, pp. 357-394.

Week 8: Application and Contestation

Assuming that the meaning of international law is not clear, does international law still matter in international affairs?

- Koskenniemi, Martti. 2005. *From apology to Utopia: the structure of international legal argument*. Cambridge: Cambridge University Press, pp. 16-69 (in particular: pp. 58-69)
- Krook, Mona Lena and Jacqui True. 2012. "Rethinking the life cycles of international norms: The United Nations and the global promotion of gender equality." *European Journal of International Relations*, Vol. 18, No. 1, pp. 103 - 127.
- Sandholtz, Wayne. 2008. "Dynamics of International Norm Change: Rules against Wartime Plunder." *European Journal of International Relations*, Vol. 14, No. 1, pp. 101-131.
- Van Kersbergen, Kees and Bertjan Verbeek. 2007. "The Politics of International Norms: Subsidiarity and the Imperfect Competence Regime of the European Union." *European Journal of International Relations*, Vol. 13, No. 2, pp. 217-238.
- Wiener, Antje and Uwe Puetter. 2009. "The Quality of Norms is What Actors Make of It. Critical Constructivist Research on Norms." *Journal of International Law and International Relations*, Vol. 5, No. 1, pp. 1-16.