



The Constitution of the international Order

Workshop organised by .
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This workshop tries to bring together three debates concerning order in international relations; one of the debates concerned the anarchy problematique and the notion of international society, which took place largely in IR. The second debate addressed the “fragmentation” issue of the international legal order (given the success of several free standing regimes) and the question of whether a “constitutional ordering” with clearer hierarchies has become necessary. This debate occupied largely international lawyers during the last decade. The third debate emerged from the intra European debate concerning the spread of norms and socialization but also was fed by an argument about “norm cascades” and “boomerangs”. Here issues of socialization and interpretation are fore-grounded.

The following literature serves as background readings for the three sessions. And students participating are supposed to be familiar with that literature.

Session I: (F Kratochwil)

International Anarchy, Practical Association, Constitutionalism (light) and International Community

Readings:

Hedley Bull, The Anarchical Society, 3rd ed (New York: Palgrave, 2002), chaps. 1 and 2

Terry Nardin, Law Morality and the Relations of States (Princeton: Princeton UP, 1983) chaps. 1 and 2

Christian Reus Smit, “The Constitutional Structure of International Society and the nature of fundamental Institutions”, International Organization, vol. 51 (1997): 55-89.

Friedrich Kratochwil, “Sociological Approaches” in Christian Reus Smit, Duncan Snidal (eds.), The Oxford Handbook of International Relations (Oxford: Oxford University Press, 2008), chap. 26.

Frank Michelman, “Constitutional Legitimization for Political Acts”, The Modern Law Review, vol. 66(2003):1-15.

Hans Ulrich Petersmann, “Constitutionalism and WTO Law” in D.L.M Kennedy, J.D. Southwick (eds.), The Political Economy of International Trade Law (Cambridge: Cambridge University Press, 2002): 32-67.

Benedict Kingsbury, Nico Krisch, Richard Stewart, “The Emergence of Global Administrative Law”, Law and Contemporary Problems, vol. 63 (2005): 15-61

Session II (Jan Klabbers)

The Fragmentation and Constitutionalization debate in International Law

Readings:

- Bardo Fassbender: "The UN Charter as the Constitution of the International Community", Columbia Journal of Transnational Law (1998): 529-619,
- Jan Klabbers, "Constitutionalism light" International Organizations Law Review, vol.1 (2004): 31-58
- Erika de Wet, "The International Constitutional Order", vol 55 International and Comparative Law Quarterly, (2006):51-76.
- Anne Peters, "Compensatory Constitutionalism: The Function and Potential of Fundamental International Norms and Structures", Leiden Journal of International Law, vol. 19 (2006): 579-610
- Jeremy Matam Farrall, United Nations Sanctions and the Rule of Law (Cambridge: Cambridge UP, 2007), chaps, 1 and 2.
- Wouter Werner, "The Never Ending Closure: Constitutionalism and International Law", in Nicholas Tsagourias (ed.) Transnational Constitutionalism (Cambridge: Cambridge UP, 2007): 329-67.
- Marrtti Koskeniemi, "Fragmentation of International Law" Report of the Study Group of the ILC (Helsinki: Erik Castren Institute, 2007).

Session III (Antje Wiener)

Norms, Interpretation and Compliance

Readings:

- Katzenstein Peter, The Culture of National Security (New York: Columbia UP, 1996), Chap. 1
- March James, Johan Olsen, "The Institutional Dynamics of International Political Orders", International Organization vol. 52 (1998): 943-96.
- Finnemore Martha, "Norms, Culture and World Politics", International Organization vol 50 (1996): 325-47
- Finnemore Martha, Sikkink, Kathrin, International Norm Dynamics and Political Change", International Organization, vol. 52 (1998): 887-917.
- Haas Peter, "Compliance Theories" in Dinah Shelton (ed.), Commitment and Compliance (Oxford: Oxford UP, 200: 43-64
- Koh Harald, "Why do Nations Obey International Law", Yale Law Journal, vol. 2106 (1997): 2599-2659
- Wiener Antje, "Contested Compliance: Interventions of the Normative Structure of World Politics", European Journal of International Relations vol. 10 (2004): 189-234
- Wiener Antje "Enacting Meaning in Use" International Studies, vol. 35 (2009): 175-193
- Wiener Antje, The Invisible Constitution of Politics (Cambridge: Cambridge University Press, 2008) chaps 1, 3 and 4.