

International Law

Academic year 2019-2020

Global South and International Law

DI018 - Autumn - 6 ECTS

Friday 10h15 - 12h00

Course Description

The aim of the course will be to look at the history, structure and process of public international law from the perspective of peoples and nations of the Global South. More specifically, it will seek to problematize and explore from that standpoint the doctrines, principles and practices of international law. The course will also attempt to identify and understand the concerns of Global South vis-à-vis certain international legal regimes and international institutions. Finally, it will raise and discuss the question whether international law can serve the cause of global justice.

> PROFESSOR

[B.S Chimni](#)

[Office hours](#)

> ASSISTANT

Malavika Rao

[Office hours](#)

Syllabus

The course will start on the 4th of October 2019.

Course Outline and Readings

Week 1

1. Introduction: Global South, Third World and Task of International Lawyers

- Siba Grovogu, 'A Revolution Nonetheless: The Global South in International Relations *The Global South*, Vol. 5, No. 1, Special Issue: The Global South and World Dis/Order (Spring 2011), pp. 175-190.
- Walter D. Mignolo, 'The Global South and World Dis/Order', *Journal of Anthropological Research*, Vol. 67 (2011) 165-188.

- Gerry Simpson, 'On the Magic Mountain: Teaching Public International Law' *European Journal of International Law* (1999) pp.70-92.
- Georges Abi-Saab, 'The Third World intellectual in praxis: confrontation, participation, or operation behind enemy lines?', *Third World Quarterly* (2016) pp.1957-1971.

Week 2

History of International Law

- Malcolm Shaw, *International Law* (Cambridge University Press, (2003) pp. 13-41.
- Antony Anghie, *Sovereignty, Imperialism and International Law* (Cambridge University Press, 2005) Chapters 2 and 3, pp.13-114.
- C.H. Alexandrowicz, *The Law of Nations in Global History* David Armitage and Jennifer Pitts eds., (Oxford University Press, 2017) pp.62-71, 113-121.
- Christopher Weeramantry, Dissenting Opinion *Legality of the Threat or Use of Nuclear Weapons case I.C.J Reports* (1996) pp. 478-482.

Week 3

Theoretical Approaches

- Hilary Charlesworth, and Christine Chinkin, "Feminist Approaches to International Law," 85 (1991) *American Journal of International Law* 613-645.
- Ratner, Steven R and Slaughter, Anne-Marie (2004) *The Methods of International Law* Washington D.C: American Society of International Law pp.1-23.
- B.S.Chimni, *International Law and World Order: A Critique of Contemporary Approaches* (Cambridge University Press, 2017) 2nd edn Chapter 1 and Chapter VI.

Week 4

Sources of International Law

- Jean D'Aspremont, *International Law as a Belief System* (Cambridge University Press, 2018) 1-30, 55-70.
- B.S.Chimni, 'Customary International Law: A Third World Perspective', *American Journal of International Law* (2017) 1-39
- Charlesworth, Hilary and Chinkin, Christine (2000) *The boundaries of international law: A feminist analysis* Manchester: Manchester University Press pp.62-96.
- Steve Charnovitz, "Nongovernmental Organizations and International Law" *American Journal of International Law*, vol. 100 (2006) pp. 348-372.

Week 5

Jurisdiction in International Law

- Karl Raustiala, *Does the Constitution Follow the Flag?: The Evolution of Territoriality in American Law* (Oxford University Press, 2009) Chapter 1.
- Turan Kayaoglu, *Legal Imperialism: Sovereignty and Extraterritoriality in Japan, the Ottoman Empire and China* (Cambridge University Press, 2010) 1-17, 191-205.
- Asha Kaushal, *The Politics of Jurisdiction*, 78(5) MODERN L.R. 759 (2015).
- Richard T. Ford, *Law's Territory: A History of Jurisdiction*, 97 MICH. L.R. 843 (1999)

Week 6

International Law of State Responsibility

- Judge Padillo Nervo, (1970) *Barcelona Traction* case Separate Opinion, I.C.J Reports pp.247-250.
- James Crawford, "The ILC's Articles on Responsibility of States for Internationally Wrongful Acts: A retrospect", *American Journal of International Law*, 96 (2002), pp.874-890.
- Dinah Shelton, 'Righting Wrongs: Reparations in the Articles on State Responsibility', *The American Journal of International Law*, 96 (2002), pp. 833-856.
- John Gerard Ruggie, 'Multinationals as global institution: Power, authority and relative autonomy' *Regulation & Governance* (2018) 317-333.

Week 7

International Human Rights Law

- Yasuaki Onuma, (1997) "Towards an Inter-civilizational Approach to Human Rights", *Asian Yearbook of International Law*, vol. 7, pp.21-81.
- Amartya Sen, *Development as Freedom* pp.3-34, 227-248.
- David Kennedy, 'The International Human Rights Movement: Part of the Problem?', 15 (2002) *Harvard Human Rights Journal* pp. 101-126.
- Annan, K (1999) "Two Concepts of Sovereignty", *The Economist*, 18 September 1999.
- Mill, John Stuart (1984) "A Few Words on Non-Intervention" in J.S.Mill, *Essays on Equality, Law and Education* Toronto: University of Toronto Press pp.118-124.

Week 8

International Environmental Law

- Gaps in international environmental law and environment-related instruments: towards a global pact for the environment: Report of the Secretary-General, UNGA, A/73/419, November 2018 at <https://globalpact.informeia.org/>

- Kishan Khoday, Usha Natarajan, 'Locating Nature: Making and Unmaking International Law' *Leiden Journal of International Law* (2014) 573-593.
- Sara L. Seck, 'Relational Law and the Reimagining of Tools for Environmental and Climate Justice' *Canadian Journal of Women and Law* 31 (2019)
- Karin Mickelson, 'The Maps of International Law: Perceptions of Nature in the Classification of Territory' *LJIL* 27 (2014), pp. 621-639
- Dipesh Chakrabarty, 'The Politics of Climate Change is More Than the Politics of Capitalism', *Theory, Culture & Society* 34 (2017) 24-37.
- Eric Brandstedt, 'Non-ideal climate justice', *Critical Review of International Social and Political Philosophy*, 22 (2019) 221-234.

Week 9

International Economic Law

- B.S. Chimni, "'International Economic Law: A Third World Approaches to International Law (TWAAIL) Perspective'" in John Linarelli ed., *Global Justice and International Economic Law* (London: Edward Elgar, 2013).
- David Trubek, Chantal Thomas and Alviro Santos, 'World Trade and Investment Law in a Time of Crisis: Distribution, Development and Social Protection' (2019) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3376716
- M. Sornarajah, 'The Unworkability of Balanced Treaties and the Importance of Diversity of Approaches among the BRICS', *AJIL Unbound* (2018)
- Congyan Cai, 'Balanced Investment Treaties and BRICS' *AJIL Unbound* (2018) [file:///I:/CANGYON%20CAI%202018%20balanced investment treaties and the brics.pdf](file:///I:/CANGYON%20CAI%202018%20balanced%20investment%20treaties%20and%20the%20brics.pdf)
- James Gathii, 'Africa and the Disciplines of International Economic Law: Taking Stock and Moving Forward', https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3002108

Week 10

International Refugee Law

- Goodwin-Gill Guy and Jane McCadam (2007) *The Refugee in International Law* pp.15-41.
- B.S. Chimni, "The Geopolitics of Refugee Studies: A View from the South", *Journal of Refugee Studies*, 11 (1998) pp.350-74.
- James Hathaway, 'Global Cop-Out on Refugees', *International Journal of Refugee Law* 30 (2018) pp.599-604

Week 11

International Institutions

- Antony Anghie, ‘Colonialism and the Birth of International Institutions: Sovereignty, Economy, and the Mandate System of the League of Nations’, 34 *N.Y.U. J. INT’L L. & POL.* 513 (2002).
- B.S. Chimni, ‘International Institutions Today: A Global Imperial State in the Making’, *EJIL* (2004) 1-39.
- Power: Decision of Pre-Trial Chamber (PTC) of ICC in Afghanistan Case

Week 12

Use of Force in International Law

- International Law Association Final Report on Use of Force (2018) available at <file:///C:/Users/BS1358~1.CHI/AppData/Local/Temp/Conference%20Report%20Sydney%202018..pdf>
- B.S.Chimni, “Peace through Law: Lessons of 1914”, *London Review of International Law* 3 (2015) pp.245-265.
- Gina Heathcote, ‘Feminist perspectives on the Law on the Use of Force’ (2014) available at <file:///C:/Users/BS1358~1.CHI/AppData/Local/Temp/Conference%20Report%20Sydney%202018..pdf>

Week 13

Reform or Revolution

1. James Gathii, ‘The Agenda of Third World Approaches to International Law (TWAAIL)’, in Jeffrey Dunoff and Mark Pollack (eds) *International Legal Theory: Foundations and Frontiers*, (Cambridge University Press, 2019) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3304767
2. Obiora Okafor, ‘Newness, Imperialism, and International Legal Reform of Our Time: A TWAAIL Perspective’, *Osgoode Hall Law Journal*, 43 (2005) 171-191.
3. B.S. Chimni, *International Law and World Order* pp. 517-525
4. Mohammed Bedjaoui, (1979) *Towards a new international economic order* Holmes and Meir: UNESCO pp. 97-115, 125-193.