International Law in a Multipolar World
ASIL 2013 Annual Meeting
April 3-6, 2013

Classroom Session Guide

This guide is intended to support law professors who wish to take advantage of the live streaming of numerous sessions during ASIL’s 2013 Annual Meeting. Included below are the titles, times, and descriptions of each session that is being streamed, as well as suggested background reading materials that can be distributed to students, and some basic questions that can be used to prompt discussion in the classroom following each session.

Each page contains an individual session’s information, participants, suggested reading materials, and questions. At the end of the list, there are several sessions that are less substantive, but feature leading figures in international law that might still be of interest to students.

All of the livestreaming sessions can be viewed on the Annual Meeting website at http://www.asil.org/am13/.
THURSDAY, April 4, 2013

Bond v. United States:
The Chemical Weapons Convention, Federalism, and the Treaty Power

9:45 – 11:15 a.m.

In Bond v. United States, the Supreme Court will address whether and to what extent the Constitution’s structural federalism limitations constrain Congress’ authority to implement a valid treaty, in light of the decision in Missouri v. Holland; whether the implementing legislation for the Chemical Weapons Convention, 18 U.S.C. § 229, as applied in Bond, improperly treads on state law enforcement authorities; and if so, whether a construction of the statute is available that would avoid potential constitutional infirmity. This panel will explore historical and structural issues regarding the status of the treaty power in the U.S. federal system, as well as the specific questions raised in Bond relating to domestic implementation of the Chemical Weapons Convention.

Speakers:
- Sarah Cleveland, Columbia Law School
- Oona Hathaway, Yale Law School
- Nicolas Quinn Rosenkranz, Georgetown University Law Center

Suggested reading:

Questions:
- What are the different doctrines for incorporation of international law into domestic systems?
- How is international law implemented in the United States?
- Explain the concept of self-executing treaties.
THURSDAY, April 4, 2013

Remote Warfare: The Moral and Legal Challenges of Targeted Killings in a Multipolar World

11:30 a.m. – 1:00 p.m.

Recent disclosures about the Obama Administration’s policy on targeted killings raise moral and legal questions about the application of humanitarian and human rights law. Is it war? If so, how should the humanitarian law rules of military necessity, distinction, proportionality, and the obligation to undertake precautions apply to individual targeting decisions in which personal risk is removed from the military calculus? If not war, then what rules apply?

Moderator: Mark Mazzetti, New York Times

Speakers:
- Daniel Bethlehem, 20 Essex Street, Legal Policy International, International Institute for Strategic Studies
- David Glazier, Loyola Law School
- Marco Sassòli, University of Geneva Law School
- Hina Shamsi, National Security Project, American Civil Liberties Union

Suggested reading:

Questions:
- What are the basic principles of international humanitarian law? What are their sources?
- How does the use of drones challenge the basic principles of IHL (especially distinction)?
- Discuss the legal regime governing use of military force – (UN charter, AUMF)
This panel explores Europe’s policies regarding international law in today’s multipolar world. How distinct is Europe’s normative agenda? Does the EU in the framework of its common foreign policy speak increasingly with one voice? Is there such a thing as an external legal policy of the EU? Are EU policies backed up by the projection of any serious power in the economic and military domain? Or is all this mere “lawfare” and an obnoxious hindrance to the US as the “indispensable power” of this world?

Moderator: Daniel Halberstam, Michigan Law School

Speakers:
- Piet Eeckhout, University College London
- Andreas Paulus, University of Göttingen; Federal Constitutional Court of Germany
- Ineta Ziemele, European Court of Human Rights

Suggested reading:

Questions:
- What role do regional organizations play in collective security? (e.g., NATO, EU, ECOWAS)
- What are the normative frameworks of EU foreign policy?
- Discuss the legal frameworks of US-EU cooperation.
Traditionally, bilateral investment treaties (BITs) reflected the “West vs. Rest” power dynamic, whereby industrialized states protected their investments in developing countries. China, however, defied this trend, negotiating the second greatest number of BITs. Although those BITs historically emphasized defensive concerns, China has shifted to protecting its investors abroad. With the growth of Chinese investment in Africa, the stronger protections and broader dispute resolution clauses now sought by China feature distinctly in the multipolar puzzle.

Moderator: Wenhua Shan, Xi’an Jiaotong University; Oxford Brookes University

Speakers:
- Huiping Chen, Department of International Economic Law, Xiamen University
- Fuli Chen, Ministry of Commerce, Embassy of China, Washington, DC
- Mark Feldmen, Peking University School of Transnational Law
- Thierry Mutumbo Kalonji, Investment Division, Office of the Secretariat, Common Market for Eastern and Southern Africa

Suggested reading:

Questions:
- What role do BITs play in international law?
- What is the international mechanism for resolution of disputes between States? (ICJ)
- What are the dispute resolution mechanisms of the multilateral trading system? (e.g., WTO, GATT)
Although traditional trade sanctions are still used, economic sanctions are focusing increasingly on the international financial system, with the goal of requiring or pressuring global financial institutions to forego transactions with sanctioned countries and persons. Are these sanctions more effective – combating terrorism, preventing proliferation, and contributing to political change? Or, do they simply exacerbate the historical challenges associated with sanctions - their adverse impact on ordinary citizens and the due process implications of designating sanctioned persons?

Moderator: Barry Carter, Georgetown University Law Center on Transnational Business and the Law; Advisory Sanctions Subcommittee of the U.S. Department of State

Speakers:
- Maya Lester, Brick Court Chambers
- Serena Moe, Wiley Rein
- Adam Szubin, Office of Foreign Assets Control, U.S. Department of the Treasury

Suggested reading:

Questions:
- What remedies are available for individuals under international law when they have been targeted with economic sanctions?
- What are the legal frameworks governing UN economic sanctions?
- Discuss the interaction between economic sanctions and IHL.
Since its establishment twenty years ago, the International Tribunal for the former Yugoslavia (ICTY) has irreversibly changed the landscape of international criminal law and provided victims an opportunity to voice the horrors they witnessed and experienced. The International Criminal Court (ICC), governed by the Rome Statute, is the first permanent, treaty-based, international criminal court, complementary to national systems, established to help end impunity for the perpetrators of the most serious crimes of concern to the international community. While operating at full capacity, the ICTY is now working towards the completion of its mandate. As an integral part of this completion process, in 2010 the Security Council created the Mechanism for International Criminal Tribunals (MICT) to carry on essential functions of both the ICTY and ICTR (such as witness protection), as well as to conduct ad hoc judicial activities. The ICC, celebrating its 10th anniversary last year, has seen its activities grow steadily, and is not expected to fade anytime soon. Marking two decades of development of international criminal law provides an opportunity to review the impact, successes, and challenges of the ICTY and the ICC, and to draw lessons for the future.

**Moderator:** Abiodun Williams, President, The Hague Institute for Global Justice

**Speakers:**
- Fatou Bensouda, Prosecutor, International Criminal Court
- Theodor Meron, President, International Criminal Tribunal for the former Yugoslavia, and The International Residual Mechanism for Criminal Tribunals

**Suggested reading:**

**Questions:**
- What are the constraints on the ICC’s jurisdiction?
- What are the implications for the United States with regards to its non-member status before the ICC? (Point out the US’s observer status, its ability to refer cases through the UN Security Council, etc.)
This roundtable considers the extent to which the United States takes a unique approach to treaty negotiation, ratification, interpretation, and domestic application, and examines the impact of U.S. practices on its engagement with the international community. To the extent that American practices are “exceptional,” does this exceptionalism hinder the U.S.’s ability to engage effectively in an increasingly multilateral world? Are these features of U.S. engagement with treaties necessary to protect uniquely American interests and concerns?

**Moderator:** Sarah Cleveland, Columbia Law School

**Speakers:**
- Sue Biniaz, Office of the Legal Adviser, U.S. Department of State
- Alan Kessel, Office of the Legal Adviser, Canadian Department of Foreign Affairs and International Trade
- Michael Mattler, Office of the Legal Adviser, U.S. Department of State; former staff member, U.S. Senate Foreign Relations Committee

**Suggested reading:**

**Questions:**
- Discuss the treaty-making process in United States.
PLENARY SESSIONS

WEDNESDAY, April 3, 2013

Grotius Lecture The Inter-American System and Challenges for its Future

4:30 – 6:00 p.m.

2013 Grotius Lecturer: Emilio Álvarez Icaza, Executive Secretary, Inter-American Commission on Human Rights

Discussant: W. Michael Reisman, Yale Law School

THURSDAY, April 4, 2013

Opening Plenary: President’s Address: ASIL Today

9:00 – 9:30 a.m.

Speaker: Donald Donovan, Debevoise & Plimpton, LLP

WILIG Luncheon: International Law and the Future of Peace

1:00 – 3:00 p.m.

The Prominent Woman in International Law Award is awarded annually by the Women in International Law Interest Group in recognition of a woman recipient’s contribution to the development of international law.

Honoree/Speaker: Diane Marie Amann, University of Georgia School of Law

Retrospective on International Law in the First Obama Administration

5:00 – 6:30 p.m.

Moderator: Donald Francis Donovan, Debevoise & Plimpton

Speakers:
- Harold Hongju Koh, Yale Law School
- Michael H. Posner, New York University
- Anne-Marie Slaughter, Princeton University
FRIDAY, April 5, 2013

The Hudson Medal Luncheon:
A Discussion with the 2013 Hudson Medal Winner

12:30 – 2:00 p.m.

Honoree/Speaker: Judge Bruno Simma, Iran-U.S. Claims Tribunal
Moderator: Joseph Weiler, New York University School of Law

An Interview with a European Scholar: Alain Pellet

3:15 – 4:45 p.m.

Young scholars interview Professor Alain Pellet, a prominent and experienced international legal scholar who has lived through international law in the bipolar world and has witnessed the changes since then through to the present.

Speaker: Alain Pellet, Université Paris Ouest Nanterre La Défense
Interviewers: Freya Baetens, Leiden University
Marko Milanovic, University of Nottingham
Antonios Tzanakopoulos, Oxford University

Inaugural Charles N. Brower Lecture on International Dispute Resolution

4:00 – 5:00 p.m.

Moderator: Donald Donovan, Debevoise & Plimpton, LLC
Lecturer: V.V. Johnny Veeder, Esq., QC
SATURDAY, April 6, 2013

Closing Plenary:
Global Governance, State Sovereignty, and the Future of International Law

11:00 a.m. – 12:30 p.m.

Two opposing global trends raise important questions about the future of international law, international institutions and global governance. On one hand, the scale and complexity of international interaction is increasing the demand for law and institutions, undermining sovereignty as traditionally understood. On the other hand, emerging powers and other states are pursuing policies that tend to reinforce an expansive interpretation of state sovereignty. This panel will explore those trends as they play out in various functional areas, such as human rights, intervention, trade, and finance.

Moderator: Jose Alvarez, New York University School of Law

Speakers:
- Judge Bruno Simma, Iran-U.S. Claims Tribunal
- Judge Hanqin Xue, International Court of Justice
- Joel P. Trachtman, Fletcher School of Diplomacy, Tuft’s University