

# Seminar: Law and Morality in International Relations

Wintersemester 2011

Nicolas Lamp, LL.M., M.A., B.A.

PhD Candidate, Law Department, London School of Economics

The seminar is concerned with the effects of norms – legal and moral – in international relations. While there is still a tendency in academic as well as public discourse to think about the role of norms primarily in terms of their (in)capacity to induce compliant behaviour, the seminar explores richer conceptions of the effects of moral and legal discourses in international relations. We will first seek a basic understanding of a few conceptual and theoretical questions: What is the relationship between law, morality and legitimacy? How is the role of norms conceptualised in international relations theories? And in what sense do these theories themselves contain certain normative commitments? We will then launch into more concrete investigations: of the mechanisms through which international law constitutes international “subjects”, such as states or indigenous people; of the relationship between law, morality, power and violence, etc.. We will ask such questions as: Should international lawyers have a privileged role in public discourse about resort to war? What are the benefits and disadvantages of addressing soldiers in a language of legal rather than moral obligation? And what are the implications of understanding mass atrocities in terms of individual crimes, as International Criminal Law does? Later we will focus on questions of fairness in the regulation of the international economy and the environment. Throughout the seminar, we will seek to bring out the potentials and pitfalls of addressing international issues through legal and moral prisms.

## Background readings

Evans, Malcolm D. (ed.) (2006): *International Law*, 2<sup>nd</sup> ed., Oxford.

Reus-Smit, Christian, and Duncan Snidal (eds.) (2009): *The Oxford Handbook of International Relations*, Oxford.

Armstrong, David, Theo Farrell and Helene Lambert (2007): *International Law and International Relations*, Cambridge.

Biersteker, Thomas J., Peter J. Spiro, Chandra Lekha Sriram and Veronica Raffo (2007): *International Law and International Relations. Bridging Theory and Practice*, London/New York.

Reus-Smit, Christian (ed.) (2004): *The Politics of International Law*, Cambridge.

Byers, Michael (ed.) (2000): *The Role of Law in International Politics*, Oxford.

# List of topics for presentation and bibliography

## *The Concepts – Law, Morality, Legitimacy*

### 1. The Relationship between Law and Morality

#### *Key readings:*

Hart, H.L.A. (1958): Positivism and the Separation of Law and Morals, in: *Harvard Law Review* 71, 539-629.

Fuller, Lon L. (1958): Positivism and Fidelity to Law – A Reply to Professor Hart, in: *Harvard Law Review* 71, 630-670.

#### *Further reading:*

Hart, H.L.A. (1994): *The Concept of Law*, Oxford.

Kelsen, Hans (1934): *Reine Rechtslehre*, Leipzig/Wien.

Bickenbach, Jerome (1989): Law and Morality, *Law and Philosophy* 8, 291-300.

Feldman, Noah, 2008: Does Sharia Mean the Rule of Law?, in: *International Herald Tribune*, 16 March 2008.

Holmes, O.W. (1897): The Path of the Law, in: *Harvard Law Review* 10 (8), 458-478.

Lacey, Nicola (2008): Philosophy, Political Morality, and History: Explaining the Enduring Resonance of the Hart-Fuller Debate, in: *New York University Law Review* 83, 1059-1087 (see also the other contributions to the symposium on the Hart-Fuller debate featured in this issue).

### 2. Law, Morality and Legitimacy

#### *Key readings:*

Habermas, Jürgen, 1998: *Between Facts and Norms. Contributions to a Discourse Theory of Law and Democracy*, Cambridge, M.A. (in German: Habermas, Jürgen (1992): *Faktizität und Geltung*, Frankfurt am Main), chapter 3.

#### *Further reading:*

Coicaud, Jean-Marc and Veijo Heiskanen (eds.) (2001): *The Legitimacy of International Organizations*, Tokyo.

Franck, Thomas (1988): Legitimacy in the International System, in: *American Journal of International Law* 82 (4), 705-759.

Mulligan, Shane P. (2005): The Uses of Legitimacy in International Relations, in: *Millennium: Journal of International Studies* 34 (2), 349-375.

Claude, Inis L., Jr. (1966): Collective Legitimization as a Political Function of the United Nations, in: *International Organization* 20 (3), 367-379.

Best, Jaqueline (2007): Legitimacy Dilemmas: The IMF's Pursuit of Country Ownership, in: *Third World Quarterly* 28 (3), 469-488.

### **3. International Law between Apology and Utopia**

#### *Key readings:*

Koskenniemi, Martti (1990): The Politics of International Law, in: *European Journal of International Law* 1, 4-32.

#### *Further reading:*

Koskenniemi, Martti (2005): *From Apology to Utopia. The Structure of International Legal Argument*, Cambridge.

Koskenniemi, Martti (2009): The Politics of International Law – 20 Years Later, in: *European Journal of International Law* 20 (1), 7-19.

Koskenniemi, Martti (2004): International Law and Hegemony: A Reconfiguration, in: *Cambridge Review of International Affairs* 17 (2), 197-218.

Kennedy, David (2006): The Last Treatise: Project and Person. (Reflections on Martti Koskenniemi's *From Apology to Utopia*), in: *German Law Journal* 7 (12), 982-992. (see also the other contributions to the symposium on Koskenniemi's *From Apology to Utopia* featured in this issue)

### ***The Role of Norms in International Relations – Theoretical Perspectives***

### **4. International Law and International Relations – A Disciplinary History**

#### *Key readings:*

Slaughter Burley, Anne-Marie (1993): International Law and International Relations: A Dual Agenda, in: *American Journal of International Law* 87, 205-239.

#### *Further reading:*

Slaughter, Anne-Marie, Andrew S. Tulumello and Stepan Wood Source (1998): International Law and International Relations Theory: A New Generation of Interdisciplinary Scholarship, in: *American Journal of International Law* 92 (3), 367-397.

Abbott, Kenneth W. (1989): Modern International Relations Theory. A Prospectus for International Lawyers, in: *Yale Journal of International Law* 14, 335-411.

Keohane, Robert O. (1997): International Relations and International Law: Two Optics, in: *Harvard International Law Journal* 38 (2), 487-502.

Abbott, Kenneth W. (1999): International Relations Theory, International Law, and the Regime Governing Atrocities in Internal Conflicts, in: *American Journal of International Law* 93 (2), 361-379.

### **5. Norms in International Relations Theory**

#### *Key readings:*

Armstrong, David, Theo Farrell and Helene Lambert: Three Lenses: Realism, Liberalism and Constructivism, in: idem: *International Law and International Relations*, Cambridge, 69-113.

#### *Further reading:*

Hurrell, Andrew (2002): Norms and Ethics in International Relations, in: Carlsnaes, Walter, Thomas Risse and Beth Simmons (ed.): *Handbook of International Relations*, London, 137-154.

- Hasenclever, Andreas, Peter Mayer and Volker Rittberger (1997): *Theories of International Regimes*, Cambridge.
- Schieder, Siegfried and Manuela Spindler (eds.) (2006): *Theorien der Internationalen Beziehungen*, Stuttgart.
- Mearsheimer, John J. (1995): The False Promise of International Institutions, in: *International Security* 19 (3), 5-49.
- Wendt, Alexander E. (1987): The Agent-Structure Problem in International Relations Theory, in: *International Organization* 41 (3), 335-370.

## **6. The Legalization Debate**

### *Key readings:*

- Goldstein, Judith, Miles Kahler, Robert O. Keohane and Anne-Marie Slaughter (2000): Introduction: Legalization and World Politics, in: *International Organization* 54 (3), 385-399.
- Finnemore, Martha and Stephen J. Toope (2001): Alternatives to “Legalization”: Richer Views of Law and Politics, in: *International Organization* 55 (3), 743-758.

### *Further reading:*

- Kratochwil, Friedrich V. (2000): How Do Norms Matter?, in: Byers, Michael (ed.): *The Role of Law in International Politics*, Oxford, 35-68.

## **7. International Law and Compliance**

### *Key readings:*

- Kingsbury, Benedict (1998): The Concept of Compliance as a Function of Competing Conceptions of International Law, in: *Michigan Journal of International Law* 19, 345-372.

### *Further reading:*

- Chayes, Abram and Antonia Handler Chayes (1993): On Compliance, in: *International Organization* 47 (2), 175-205.
- Koh, Harold Hongju (1997): Review Essay. Why Do Nations Obey International Law?, in: *Yale Law Journal* 106, 2599-2659.
- Henkin, Louis (1979): *How Nations Behave. Law and Foreign Policy*, New York.
- Jeffrey W. Legro (1997): Which Norms Matter? Revisiting the “Failure” of Internationalism, in: *International Organization* 51 (1), 31-63.
- Raustiala, Kal and Anne-Marie Slaughter (2002): International Law, International Relations and Compliance, in: Carlsnaes, Walter, Thomas Risse and Beth Simmons (ed.): *Handbook of International Relations*, London, 539-558.

## **8. Case Study: The WTO Dispute Settlement System**

- Jackson, John H. (1997): The WTO Dispute Settlement System – Misunderstandings on the Nature of Legal Obligation, in: *American Journal of International Law* 91 (1), 60-64.
- Jackson, John H. (2004): International Law Status of WTO Dispute Settlement Reports: Obligation to Comply or Option to “Buy Out”?, in: *American Journal of International Law* 98 (1), 109-125.

- Busch, Marc L. and Eric Reinhardt (2000): Bargaining in the Shadow of the Law: Early Settlement in GATT/WTO Disputes, in: *Fordham International Law Journal* 24 (1-2), 1158-1172.
- Busch, Marc L. and Eric Reinhardt (2003): Developing Countries and General Agreement on Tariffs and Trade/World Trade Organization Dispute Settlement, in: *Journal of World Trade* 37 (4), 719-735.
- Grosse Ruse-Khan, Henning (2008): A Pirate of the Carribean? The Attractions of Suspending TRIPS Obligations, *Journal of International Economic Law* 11 (2), 313-364.
- Hudec, Robert E. (1993): *Enforcing International Trade Law: The Evolution of the Modern GATT Legal System*, Salem.
- Weiler, Joseph (2001): The Rule of Lawyers and the Ethos of Diplomats-Reflections on the Internal and External Legitimacy of WTO Dispute Settlement, in: *Journal of World Trade* 35(2), 191-208.
- Trachtman, Joel P. (1999): Bananas, Direct Effect and Compliance, in: *European Journal of International Law* 10 (4), 655-678.

## ***Normativity and IR Theory***

### **9. The Normative Commitments of IR Theory**

#### *Key readings:*

- Reus-Smit, Christian, and Duncan Snidal (2009): Between Utopia and Reality: The Practical Discourses of International Relations, in: idem (eds.): *The Oxford Handbook of International Relations*, Oxford, 3-40.

#### *Further reading:*

- Dworkin, Ronald (2004): Hart's Postscript and the Character of Political Philosophy, in: *Oxford Journal of Legal Studies* 24 (1), 1-37.
- Franck, Thomas M. (2006): The Power of Legitimacy and the Legitimacy of Power: International Law in an Age of Power Disequilibrium, in: *American Journal of International Law* 100, 88-106.
- Lamp, Nicolas (2008): Normativität und Kritische Theorie in den Internationalen Beziehungen, in: Brandt, Alexander und Stefan Robel (eds.): *Internationale Beziehungen – Aktuelle Forschungsfelder, Wissensorganisation und Berufsorientierung*, Dresden, 51-75.
- Zalewski, Marysia (1996): 'All these theories yet the bodies keep piling up': Theory, Theorists, Theorising, in: Smith, Steve, Ken Booth and Marysia Zalewski (eds.): *International Theory: Positivism and Beyond*, Cambridge, 340-353.
- Giddens, Anthony (1984): *The Constitution of Society. Outline of the Theory of Structuration*, Cambridge, Introduction.
- Weber, Cynthia (2001): *International Relations Theory. A Critical Introduction*, London/New York.

## ***Norms and the Constitution of the International System***

### **10. Law and the Constitution of Subjectivity**

#### *Key readings:*

Anghie, Antony (1999): Finding the Peripheries: Sovereignty and Colonialism in Nineteenth-Century International Law, in: *Harvard International Law Journal* 40 (1), 1-80.

*Further reading:*

Reus-Smit, Christian (1997): The Constitutional Structure of International Society and the Nature of Fundamental Institutions, in: *International Organization* 51 (4), 555-589.

Anghie, Antony (2005): *Imperialism, Sovereignty and the Making of International Law*, Cambridge.

Klabbers, Jan (2006): The Right to be Taken Seriously: Self-Determination in International Law, in: *Human Rights Quarterly* 28 (1), 186-206.

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

Nesiah, Vasuki (2003): Placing International Law: White Spaces on a Map, in: *Leiden Journal of International Law* 16, 1-35.

Pahuja, Sundhya (2005): The Postcoloniality of International Law, in: *Harvard International Law Journal* 46 (2), 459-469.

Simpson, Gerry (2004): *Great Powers and Outlaw States: Unequal Sovereigns in the International Legal Order*, Cambridge.

## **11. Case study: Indigenous People in International Law**

Anaya, S. James (2004): *Indigenous Peoples in International Law*, Oxford.

Quane, Helen (2005): The Rights of Indigenous Peoples and the Development Process, in: *Human Rights Quarterly* 27, 652-682.

Shaw, Karena (2002): Indigeneity and the International, in: *Millennium: Journal of International Studies* 31 (1), 55-81.

## **12. Global Governance, Democratic Legitimacy and International Law**

*Key readings:*

Held, David (2004): Democratic Accountability and Political Effectiveness from a Cosmopolitan Perspective, in: *Government and Opposition* 39 (2), 364-391.

*Further reading:*

Howse, Robert (2001): The Legitimacy of the World Trade Organization, in: Coicaud, Jean-Marc and Veijo Heiskanen (eds.): *The Legitimacy of International Organizations*, Tokyo et al., 355-407.

Marks, Susan (2001): Democracy and International Governance, in: Coicaud, Jean-Marc and Veijo Heiskanen (eds.): *The Legitimacy of International Organizations*, Tokyo et al., 47-68.

Kumm, Mattias (2004): The Legitimacy of International Law: A Constitutionalist Framework of Analysis, in: *European Journal of International Law* 15 (5), 907-931.

Moravcsik, Andrew (2004): Is there a 'Democratic Deficit' in World Politics? A Framework for Analysis, in: *Government and Opposition* 39 (2), 336-363.

Neyer, Jürgen (1999): Legitimes Recht oberhalb des demokratischen Rechtsstaates? Supranationalität als Herausforderung für die Politikwissenschaft, in: *Politische Vierteljahresschrift* 40 (3), 390-414.

- Schmalz-Bruns, Rainer (1999): Deliberativer Supranationalismus. Demokratisches Regieren jenseits des Nationalstaates, in: *Zeitschrift für Internationale Beziehungen* 6 (2), 185-244.
- Zürn, Michael (2000): Democratic Governance Beyond the Nation-State: The EU and Other International Institutions, in: *European Journal of International Relations* 6 (2), 183-221.

## ***Law, Power and Violence***

### **13. Law and Morality as Constraints on and Sources of Power**

#### *Key readings:*

- Barnett, Michael and Raymond Duvall (2005): Power in Global Governance, in: Barnett, Michael and Raymond Duvall (eds.): *Power in Global Governance*, Cambridge, 1-32.

#### *Further reading:*

- Hurd, Ian (1999): Legitimacy and Authority in International Politics, in: *International Organization* 53 (2), 379-408.
- Collingwood, Vivien (2006): Non-Governmental Organisations, Power and Legitimacy in International Society, in: *Review of International Studies* 32, 439-454.
- Franck, Thomas (1990): *The Power of Legitimacy Among Nations*, New York/Oxford.
- Steinberg, Richard H. (2002): In the Shadow of Law or Power? Consensus-Based Bargaining and Outcomes in the GATT/WTO, in: *International Organization* 56 (2), 339-374.
- Risse, Thomas, Stephen C. Ropp and Kathryn Sikking (eds.) (1999): *The Power of Human Rights. International Norms and Domestic Change*, Cambridge.
- Toope, Stephen J. (2003): Powerful but Unpersuasive? The Role of the United States in the Evolution of Customary International Law, in: Byers, Michael, and Georg Nolte (eds.): *United States Hegemony and the Foundations of International Law*, Cambridge, 287-316.
- Nicolaidis, Kalypso, and Robert Howse (2002): 'This is my EUtopia...': Narrative as Power, in: *Journal of Common Market Studies* 40 (4), 767-792.
- Nye, Joseph S., Jr. (2004): *Soft Power. The Means to Success in World Politics*, New York.
- Schell, Jonathan, 2003: *The Unconquerable World. Power, Nonviolence, and the Will of the People*, London et al.: Penguin.

### **14. Case Study: Law and Morality in Public Discourse – The Iraq War**

- Scott, Shirley V. and Olivia Ambler (2007): Does Legality Really Matter? Accounting for the Decline in US Foreign Policy Legitimacy Following the 2003 Invasion of Iraq, in: *European Journal of International Relations* 13 (1), 67-87.
- Craven, Matthew, Susan Marks, Gerry Simpson, and Ralph Wilde (2004): 'We Are Teachers of International Law', in: *Leiden Journal of International Law* 17, 363-374.
- Prozorov, Sergej (2006): Liberal Enmity: The Figure of the Foe in the Political Ontology of Liberalism, in: *Millennium: Journal of International Studies* 35 (1), 75-99.
- Bjola, Corneliu (2005): Legitimizing the Use of Force in International Politics: A Communicative Action Perspective, in: *European Journal of International Relations* 11 (2), 266-303.
- Danner, Mark (2007): 'The Moment Has Come to Get Rid of Saddam', in: *The New York Review of Books* 54 (17), 08 November 2007.

- Hurd, Ian (2007): Breaking and Making Norms: American Revisionism and Crises of Legitimacy, in: *International Politics* 44, 194-213.
- Johnstone, Ian (2003): Security Council Deliberations: The Power of the Better Argument, in: *European Journal of International Law* 14 (3), 437-480.
- Mearsheimer, John J. und Stephen M. Walt (2003): An Unnecessary War in: *Foreign Policy* 134.
- Mégret, Frédéric (2002): 'War'? Legal Semantics and the Move to Violence, in: *European Journal of International Law* 13 (2), 361-399.

## **15. Law and Morality in Military Interventions – Humanitarian Interventions and the Responsibility to Protect**

### *Key readings:*

- Koskeniemi, Martti (2002): 'The Lady Doth Protest Too Much'. Kosovo, and the Turn to Ethics in International Law, in: *Modern Law Review* 65 (2), 159-175.
- International Commission on Intervention and State Sovereignty (2001): *The Responsibility to Protect*, Ottawa.

### *Further reading:*

- Merkel, Reinhard (2000): Das Elend der Beschützten. Rechtsethische Grundlagen und Grenzen der sog. humanitären Intervention und die Verwerflichkeit der NATO-Aktion im Kosovo-Krieg, in: Merkel, Reinhard (ed.): *Der Kosovo-Krieg und das Völkerrecht*, Frankfurt am Main, 66-98.
- Krisch, Nico (2002): Review Essay: Legality, Morality and the Dilemma of Humanitarian Intervention after Kosovo, in: *European Journal of International Law* 13 (1), 323-335.
- Byers, Michael (2003): Preemptive Self-Defense: Hegemony, Equality and Strategies of Legal Change, in: *Journal of Political Philosophy* 11 (2), 171-190.
- Lamp, Nicolas, and Dana Trif (2009): UN Peacekeeping Forces and the Protection of Civilians in Armed Conflict, *Hertie School of Governance Working Paper* No. 47, November 2009.

## **16. Privileging Combat? Critical Perspectives on International Humanitarian Law**

### *Key readings:*

- Jochnick, Chris af and Roger Normand (1994a): The Legitimation of Violence: A Critical History of the Laws of War, in: *Harvard International Law Journal* 35 (1), 49-95.
- Crawford, Neta C. (2007): Individual and Collective Moral Responsibility for Systemic Military Atrocity, in: *Journal of Political Philosophy* 15 (2), 187-212.

### *Further reading:*

- Kennedy, David (2006): *Of War and Law*, Princeton.
- Smith, Thomas W. (2002a): The New Law of War: Legitimizing Hi-Tech and Infrastructural Violence, in: *International Studies Quarterly* 46 (3), 355-374.
- Berman, Nathaniel (2004): Privileging Combat? Contemporary Conflict and the Legal Construction of War, in: *Columbia Journal of Transnational Law* 43, 1-71.
- Humphreys, Stephen (2006): Legalizing Lawlessness: On Giorgio Agamben's *State of Exception*, in: *European Journal of International Law* 17 (3), 677-687.



Johns, Fleur (2005): Guantánamo Bay and the Annihilation of the Exception, in: *European Journal of International Law* 16 (4), 613-635.

Jochnick, Chris af and Roger Normand (1994b): The Legitimation of Violence: A Critical Analysis of the Gulf War, in: *Harvard International Law Journal* 35 (2), 387-416.

## **17. International Criminal Law: Combating Mass Atrocities through Individual Responsibility?**

*Key readings:*

Simpson, Gerry (2007): *Law, War and Crime: War Crimes, Trials and the Reinvention of International Law*, London, chapters 1 and 3.

*Further reading:*

Drumbl, Mark A. (2007): *Atrocity, Punishment, and International Law*, Cambridge.

Maogoto, Jackson Nyamuya (2003): The International Criminal Tribunal for Rwanda: A Distorting Mirror. Casting Doubt on Its Actor-Oriented Approach in Addressing the Rwandan Genocide, in: *African Journal on Conflict Resolution* 3 (1), 53-98.

Drumbl, Mark A. (2000): Punishment, Postgenocide: From Guilt to Shame to Civis in Rwanda, in: *New York University Law Review* 75, 1221-1326.

Akhavan, Payam (2001): Beyond Impunity: Can International Criminal Justice Prevent Future Atrocities, in: *American Journal of International Law* 95 (1), 7-31.

Martti Koskeniemi, *Between Impunity and Show Trials*, 6 Max Planck Yearbook for United Nations Law (2002), 1-36.

Burke-White, William W. (2005): Complementarity in Practice: The International Criminal Court as Part of a System of Multi-Level Global Governance in the Democratic Republic of Congo, in: *Leiden Journal of International Law* 18 (3), 557-590.

Klabbers, Jan (2001): Just Revenge? The Deterrence Argument in International Criminal Law, in: *Finnish Yearbook of International Law* XII, 249-267.

## **18. Human Rights: Moral Rights or Legal Artefacts?**

*Key readings:*

Glendon, Mary Ann (1998): Knowing the Universal Declaration of Human Rights, in: *Notre Dame Law Review* 73, 1153-1190.

*Further reading:*

Dembour, Marie-Benedicte (2006): *Who Believes in Human Rights? Reflections on the European Convention*, Cambridge.

Wai, Robert (2003): Countering, Branding, Dealing: Using Economic and Social Rights in and around the International Trade Regime, in: *European Journal of International Law* 14 (1), 35-84.

Kennedy, David (2002): The International Human Rights Movement: Part of the Problem?, in: *Harvard Human Rights Journal* 15, 101-125.

Human Rights Watch (2008): *On the Margins of Profit. Rights at Risk in the Global Economy*, February 2008.

Ignatieff, Michael (2003): *Human Rights as Politics and Idolatry*, Princeton.

Pogge, Thomas (2005): Recognized and Violated by International Law: The Human Rights of the Global Poor, in: *Leiden Journal of International Law* 18, 717-745.

### **19. Case Study: The UNHCR and the Bureaucratization of Refugee Protection**

Kennedy, David (2005): *The Dark Side of Virtue: Reassessing International Humanitarianism*, Princeton, chapter 7.

Barnett, Michael and Martha Finnemore (2004): *Rules for the World. International Organizations in Global Politics*, Ithaca/London, chapter 4.

Cunliffe, Alex and Michael Pugh (1999): UNHCR as Leader in Humanitarian Assistance: A Triumph of Politics Over Law?, in: Nicholson, Frances and Patrick Twomey (eds.): *Refugee Rights and Realities*, Cambridge, chapter 9.

## ***Law, Morality and the International Economic System***

### **20. Reforming the World Trading System**

*Key readings:*

Tarullo, Daniel K. (1985): Logic, Myth, and the International Economic Order, in: *Harvard International Law Journal* 26 (2), 533-552.

Lang, Andrew T.F. (2007): Reflecting on 'Linkage': Cognitive and Institutional Change in The International Trading System, in: *Modern Law Review* 70 (4), 523-549.

*Further reading:*

Unger, Roberto Mangabeira (2007): *Free Trade Reimagined. The World Division of Labour and the Method of Economics*, Princeton, chapter 5.

Jawara, Fatoumata and Aileen Kwa (2004): *Behind the Scenes at the WTO. The Real World of International Trade Negotiations*, London/New York.

Stiglitz, Joseph E. and Andrew Carlton (2005): *Fair Trade For All. How Trade Can Promote Development*, Oxford.

### **21. Case Study: Intellectual Property Rights and Access to Essential Medicines: The TRIPS and Public Health Debate**

*Key Readings:*

Abbott, Frederick (2005): The WTO Medicines Decision: World Pharmaceutical Trade and the Protection of Public Health, in: *American Journal of International Law* 99, 317-358.

*Further Reading:*

Sell, Susan K. (2003): *Private Power, Public Law. The Globalization of Intellectual Property Rights*, Cambridge.

Stegemann, Klaus (2000): The Integration of Intellectual Property Rights into the WTO System, in: *The World Economy* 23 (9), 1237-1267.

Sun, Haochen (2004): The Road to Doha and Beyond: Some Reflections on the TRIPS Agreement and Public Health, in: *European Journal of International Law* 15 (1), 123-150.

Lang, Andrew T.F. (2007): Re-Thinking Trade and Human Rights, in: *Tulane Journal of International and Comparative Law* 15 (2), 335-413.

## **22. Investor-State Arbitration and the Boundaries between Public and Private Authority**

### *Key readings:*

Van Harten, Gus (2007): Private Authority and Transnational Governance: The Contours of the International System of Investor Protection, in: *Review of International Political Economy* 12, 600-623.

### *Further reading:*

Van Harten, Gus (2007): The Public-Private Distinction in the International Arbitration of Individual Claims against the State, in: *International and Comparative Law Quarterly* 56, 371-394.

Keohane, Robert O., Andrew Moravcsik and Anne-Marie Slaughter (2000): Legalized Dispute Resolution: Interstate and Transnational, in: *International Organization* 54 (3), 457-488.

Walter, Andrew (2001): NGOs, Business and International Investment: The Multilateral Agreement on Investment, Seattle, and Beyond, in: *Global Governance* 7, 51-73.

Cutler, A. Claire, Virginia Haufler and Tony Porter (1999): *Private Authority and International Affairs*, Albany.

## ***Law, Morality and the Environment***

## **23. Moral Debates about Climate Change**

### *Key readings:*

Singer, Peter (2004): *One World. The Ethics of Globalization*, New Haven/London, chapter 2.

### *Further reading:*

Caney, Simon (2005): Cosmopolitan Justice, Responsibility, and Global Climate Change, in: *Leiden Journal of International Law* 18, 747-775.

Shue, Henry (1999): Global Environment and International Inequality, in: *International Affairs* 75, 531-545.

Eckersley, Robyn (2004): Soft Law, Hard Politics, and the Climate Change Treaty, in: Reus-Smit, Christian (ed.): *The Politics of International Law*, Cambridge, chapter 4.

Bodansky, Daniel (1999): The Legitimacy of International Governance: A Coming Challenge for International Environmental Law?, in: *American Journal of International Law* 93 (3), 596-624.

## ***Broader Investigations***

## **24. Formal and Substantive Equality in International Relations**

### *Key Readings:*

Cullet, Philippe (1999): Differentiation in International Law: Towards a New Paradigm of Inter-State Relations, in: *European Journal of International Law* 10 (3), 549-582,

Kingsbury, Benedict (1998): Sovereignty and Inequality, in: *European Journal of International Law* 9, 599-625.

*Further Reading:*

MacKinnon, Catharine A. (1991): Reflections on Sex Equality under Law, in: *Yale Law Journal* 100 (5), 1281-1328.

Hudec, Robert E. (1987): *Developing Countries in the GATT Legal System*, London.

Stone, Christopher D. (2004): Common But Differentiated Responsibilities in International Law, in: *American Journal of International Law* 98 (2), 276-301.

Rolland, Sonia E. (2010): Redesigning the Negotiation Process at the WTO, in: *Journal of International Economic Law* 13(1), 65-110.

Keck, Alexander and Patrick Low (2004): Special and Differential Treatment in the WTO: Why, When And How?, *WTO Staff Working Paper ERSD-2004-03*.

## **25. Law and the Production of Knowledge**

*Key readings:*

Lang, Andrew (2009): Legal Regimes and Regimes of Knowledge: Governing Global Services Trade, *LSE Law, Society and Economy Working Papers* 15/2009.

## **26. Law, Morality and Politics**

Fischer-Lescano, Andreas and Philip Liste (2005): Völkerrechtspolitik. Zu Trennung und Verknüpfung von Politik und Recht der Weltgesellschaft, in: *Zeitschrift für Internationale Beziehungen* 12 (2), 209-249.

Kennedy, David (2005): *The Dark Side of Virtue: Reassessing International Humanitarianism*, Princeton, chapter 9.

Koskeniemi, Martti (2007): The Fate of Public International Law: Between Technique and Politics, in: *Modern Law Review* 70 (1), 1-30.

Nicolas Lamp, May 2011