

An Introduction to Global Law

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Schedule:

11 November 2022, 11:00-13:00

18 November 2022, 11:00-13:00

25 November 2022, 11:00-13:00

1 December 2022, 11:00-13:00

9 December 2022, 11:00-13:00

16 December 2022, 11:00-13:00

2 days of paper discussion, February 2023

Description

The course aims at introducing students to the multifaceted notion of global law, focusing in particular on its private manifestations.

Students are required to attend the lessons, to read the suggested materials and to participate in the class discussion, as well as to produce a final essay on a topic to be agreed with the three instructors. There are mandatory readings for each class. Classes 3, 4 and 6 also have elective readings. Students are required to select at least one elective reading throughout the course and to present its contents to their colleagues (15 minutes max).

Assessment: students will be required to prepare a paper that will be discussed at the end of the course, in February 2023. Students will be assessed on the basis of their in-class participation (50%) and of their final essay (50%).

Lesson 1: Law and Its Globalization – 11 November 2022

The class will provide a general introduction to the course and to the notion (and limits) of global law. The following issues will be explored: what is global law? Who makes global rules? What forms do these rules take? What is their relationship with other legal regimes and orders?

Mandatory readings:

- Lawrence M. Friedman, Erehwon. The Coming Global Legal Order, in Lawrence M. Friedman, Rogelio Pérez-Perdomo, Manuel A. Gómez (eds.), *Law in Many Societies. A Reader* (Stanford University Press, 2011), 308-316.
- Mauro Bussani, Deglobalizing Rule of Law and Democracy: Hunting Down Rhetoric Through Comparative Law, 67 *American Journal of Comparative Law* 701-728 (2020).

Lesson 2: Framing Global Law – 18 November 2022

The class will present and discuss some of the methodological lenses that might be used to look at global law, focusing in particular on global administrative law, global legal pluralism, and transnational legal theory.

Mandatory readings:

- Benedict Kingsbury, Nico Krisch, Richard B. Stewart, The Emergence of Global Administrative Law, 68 *Law and Contemporary Problems* 15-27 (2005).
- Peer Zumbansen, Transnational Law: Theories and Applications, in Peer Zumbansen (ed.), *The Oxford Handbook of Transnational Law* (OUP 2021) 1, 15-22.
- Paul Shiff Berman, Understanding Global Legal Pluralism. From Local to Global, from Descriptive to Normative, in Paul Shiff Berman (eds.), *The Oxford Handbook of Global Legal Pluralism* (Oxford University Press, 2020), 1-12.

Lesson 3: Controlling Trade and Finance – 25 November 2022

The class will focus on the global law of trade and finance. Who makes rules governing global trade and finance? Which forms do these rules and their enforcement take? What is the relationship of these rules with other legal regimes and orders? Whose interests do these rules promote?

Mandatory readings:

- Mauro Bussani, Strangers in the Law: Lawyers' Law and the Other Legal Dimensions, 40 *Cardozo Law Review* 3125, 3146-3160 (2019).
- Chris Brummer, Soft Law and the Global Financial System. Rule Making in the 21st Century (Cambridge University Press, 2015, 2nd ed.), 62-92, 100-106.

Elective readings:

- Lisa Bernstein, Opting Out the Legal System: Extralegal Contractual Relations in the Diamond Industry, 21 *Journal of Legal Studies* 115-130 (1992).
- Larry Catá Backer, Are Supply Chains Transnational Legal Orders? What We Can Learn from the Rana Plaza Factory Building Collapse, 1 *UC Irvine Journal of International, Transnational, and Comparative Law* 11-65 (2016).
- Annalise Riles, *Collateral Knowledge. Legal Reasoning in the Global Financial Markets* (University of Chicago Press, 2011), 1-9, 29-34, 41-47; Fleur Johns, Book Review. Annalise Riles. *Collateral Knowledge: Legal Reasoning in the Global Financial Markets*. Chicago and

London: University of Chicago Press, 2011, 23 *European Journal of International Law* 1194-1199 (2012).

- Mauro Bussani, *Credit Rating Agencies' Accountability. Short Notes on a Global Issue*, *Global Jurist*, Vol. 10, No. 1, *Advances*, 1-16 (updated version).

Lesson 4: Protecting the Environment – 1 December 2022

The class will focus on global rules regulating environmental standards and climate change litigation. Who makes these rules? Which form do they take? Whose interests do they promote?

Mandatory readings:

- Paul Verbruggen, *Introduction: Regulating Private Regulators: Understanding the Role of Private Law*, *European Review of Private Law* 175-186 (2019).
- Emily Webster and Laura Mai, *Transnational environmental law in the Anthropocene*, 11 *Transnational Legal Theory* 1-7, 12-15 (2020).

Elective readings:

- Sanderijn Duquet and Dylan Geraets, *Food Safety Standards and Informal International Lawmaking*, in Ayelet Berman, Sanderijn Duquet, Joost Pauwelyn, Ramses A. Wessel and Jan Wouters (eds.), *Informal International Lawmaking: Case Studies* (Torkel Opsahl Academic Epublisher, 2012), 395-433.
- Graeme Auld and Lars H. Gulbrandsen, *Private Regulation in Global Environmental Governance*, in Robert Falkner (ed.), *The Handbook of Global Climate and Environment Policy* (John Wiley & Sons, 2013), 394-398, 406-412, 415-429.
- Wolfgang Kahl and Marc-Philippe Weller (eds.), *Liability for Climate Damages – Synthesis and Future Prospects*, in Wolfgang Kahl and Marc-Philippe Weller (eds.), *Climate Change Litigation: A Handbook* (Bloomsbury, 2021), 532-539, 543-549, 554-560.

Lesson 5: Regulating Investment Frameworks – 9 December 2022

The class will focus on the history of the global regulation of investment frameworks by the World Bank's *Doing Business Reports*. The class will explore the context underlying the Reports, and on their methodology, structure and regulatory effects.

Mandatory readings:

- Kevin E. Davis, Benedict Kingsbury, Sally Engle Merry, *Introduction: Global Governance by Indicators*, in Kevin E. Davis, Angelina Fisher, Benedict Kingsbury, Sally Engle Merry (eds.), *Governance by Indicators. Global Power through Quantification and Rankings* (OUP 2012) 3-21.
- World Bank, *Doing Business 2020* (World Bank 2019) 1-27.

Lesson 6: Measuring Democracy and Corruption – 16 December 2022

The class will focus on global initiatives aiming at measuring the levels of democracy and corruption in the world's countries. The class will analyze the following issues: who makes the law in these sectors, and how? What is the role of global law in these sectors? Which forms does it take? What is its relationship with other legal regimes and orders? Whose interests does it promote? What benefits and what challenges does it raise?

Mandatory readings:

- Marta Infantino, Quantitative Legal Comparisons: Narratives, Self-Representations and Sunset Boulevards, 6 *Journal of International and Comparative Law* 287-306 (2019).

Elective readings

- Sarah Sunn Bush, The Politics of Rating Freedom: Ideological Affinity, Private Authority, and the Freedom in the World Ratings, 15 *Perspectives on Politics* 711-731 (2017).
- René Urueña, Activism Through Numbers? The Corruption Perception Index and the Use of Indicators by Civil Society Organisations, in Debora Valentina Malito, Gaby Umbach, Nehal Bhuta (eds.), *The Palgrave Handbook of Indicators in Global Governance* (Palgrave, 2018), 371-388.

Lessons 7 and 8 – Discussion of the papers – TBD