

An Introduction to Global Law

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Schedule:

9 November 2023, 17:00-19:00
10 November 2023, 11:00-13:00
23 November 2023, 17:00-19:00
24 November 2023, 11:00-13:00
30 November 2023, 17:00-19:00
1 December 2023, 11:00-13:00
14 December 2023, 17:00-19:00
15 December 2023, 11:00-13:00
2 days of paper discussion, February 2024

Description

The course aims at introducing students to the multifaceted notion of global law, focusing on its private and public 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 classes 1-3 and 6-7. Each student is required to select (at least) one theme from classes 4-5 and 8 and to prepare, on the basis of the suggested reading, a short lecture (15 minutes max) presenting the style, contents and effects of global law in the sector concerned.

Assessment: students will be required to prepare a paper that will be discussed at the end of the course, in February 2024. Students will be assessed on the basis of their in-class participation (40%) and of their final essay (60%).

Class 1: Law and Its Globalization – 9 November 2023

The class will provide a general introduction to the course and to the notion and limits of global law.

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).

Class 2: The Many Shapes and Sizes of Global Law – 10 November 2023

The class will explore more in detail the following issues: who makes global rules? What forms do these rules take? What is their relationship with other legal regimes and orders?

Mandatory readings:

- Mauro Bussani, Strangers in the Law: Lawyers' Law and the Other Legal Dimensions, 40 *Cardozo Law Review* 3125-3126, 3146-3160 (2019).

Class 3: Framing Global Law – 23 November 2023

The class will present and discuss some of the methodological lenses to look at global law, focusing 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.

Class 4: Controlling Trade and Finance – 24 November 2023

The class will be centered upon students' presentation and discussion of (what they got from the readings about) the global law of trade and finance. Students who will be assigned the readings will be required to address questions such as: 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?

Themes and suggested readings for the presentations:

- *diamond trade*: Lisa Bernstein, Opting Out the Legal System: Extralegal Contractual Relations in the Diamond Industry, 21 *Journal of Legal Studies* 115-130 (1992).
- *supply chains*: 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).
- *global finance*: 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.
- *credit rating agencies*: Mauro Bussani, Credit Rating Agencies' Accountability. Short Notes on a Global Issue, *Global Jurist*, Vol. 10, No. 1, *Advances*, 1-16 (updated version).

Class 5: Protecting the Environment – 30 November 2023

The class will be centered upon students' presentation and discussion of (what they got from the readings about) the global law of food safety and environmental protection. Students who will be assigned the readings will be required to address questions such as: 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?

Themes and suggested readings for the presentations:

- *food safety*: 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.
- *environmental standards*: 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), 394-411.
- *climate change*: 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.

Class 6: Global Law by Numbers – 1 December 2023

The class will focus on the emergence of quantitative approaches in the governance of global social phenomena and on the global spread of the audit culture, as well as on and its regulatory consequences.

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.

Class 7: Regulating Business Law – 14 December 2023

The class will focus on the history of the global regulation of business 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.

- Marta Infantino, Quantitative Legal Comparisons: Narratives, Self-Representations and Sunset Boulevards, 6 *Journal of International and Comparative Law* 287-306 (2019).
- World Bank, *Doing Business 2020* (World Bank 2019) 1-27.

Class 8: Measuring Democracy, Corruption and Sustainability – 15 December 2023

The class will be centered upon students' presentation and discussion of (what they got from the readings about) global law by numbers, focussing in particular on global initiatives aiming at measuring the levels of democracy, corruption and sustainability in the world's countries. Students who will be assigned the readings will be required to address questions such as: 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?

Themes and suggested readings for the presentations:

- *democracy*: 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).
- *corruption*: 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.
- *sustainability*: Sharmila L. Murthy, Translating Legal Norms into Quantitative Indicators: Lessons from the Global Water, Sanitation, and Hygiene Sector, 42 *William & Mary Environmental Law & Policy Review* 385-396, 408-435 (2018).

Lessons 9 and 10 – Discussion of the papers – TBD