

**SOC 476 Sociology of International Law**  
Grégoire Mallard

**Course Description:** This course focuses on sociological theories of international law. We will study whether international law can better protect the rule of law in constitutional democracies and solve collective action problems at the international level. We will also explore recent approaches which address questions of global legal pluralism, that is, how international courts and organizations deal with the plurality of legal regimes. Among the issues raised, we will ask : How can international law bridge differences across national legal cultures? Can transnational advocacy networks and international lawyers force democratic governments into implementing international law? Can the multiple sources of international law be constitutionalized? Is a global rule of law possible? Or even desirable? The perspective adopted to analyze law is historical, sociological and theoretical rather than purely based on case studies. Students will be encouraged to develop an original approach to the topic and to illustrate their approach by researching cases of interest to them.

**Assessment:** This course is a graduate seminar and requires active participation from all members during class and every week. The assessment of students' performance will be broken down into four criteria: participation in class (10% of the grade), two short exercises (20%), final paper (70%).

The two short exercises will consist in the following pair of exercises. 1) *Once during the quarter*, students will choose *one* of the required readings of the week, and they will analyze its analytic structure: they will break down its argument into a maximum of twenty bullet points; then, they will show where the text's logic is faulty, or where evidence for the bullet point are missing (max. 2 pages). 2) In addition, *once during the quarter*, students will be asked to *pair with another student*, and to present how *two articles/book chapters* among the week's readings help them understand a contemporary issue that is relevant to the texts, although not discussed by the readings. They will present their results *during* class (max. 5 minutes).

The final paper will consist in the analysis of an issue related to the field of international law, which the readings in class help illuminate. It will involve some research with primary and/or second-hand documents: archives, interviews, observations, press analysis, academic works. It will not be longer than 10 pages.

## **SCHEDULE OF READINGS**

### **WEEK 1: Biographies: International Lawmakers and their ideas**

Mark Mazower. 2010. Introduction, Chapters 1 3, 4. Pp.1-65, p.105-188. *No Enchanted Palace: The End of Empire and the Ideological Origins of the United Nation*. Princeton : Princeton University Press. See which chapters.

Hannah Arendt. 1951. Chapter 7. Pp.185-221. "Race and Bureaucracy," in *The Origins of Totalitarianism: Imperialism (vol. 2)*. New York: HBJ Books.

Grégoire Mallard. 2011. "*The Gift Revisited: Marcel Mauss on War, Reparations and the Politics of Nations.*"

## **WEEK 2: National Cultures of International Law**

Carl Schmitt. 2003 [1950]. Part of the "Translator's Introduction" (pp. 9-30); Part IV, chapter 2: "The Dissolution of the *Jus Publicum Europeum*." (pp. 227-240) "The Last Pan-European Land-Appropriation: The Congo Conference of 1885" (pp. 214-226), Part IV, Chapter 3, "The League of Nations and the Problem of the Spatial Order of the Earth" (pp. 240-258); in *The Nomos of the Earth in the International Law of the Jus Publicum Europeum*. New York: Telos Press.

Martti Koskeniemi. 2000. Chapters 2, 3, 4 Pp 98-348. *The Gentle Civilizer of Nations : The rise and Fall of International Law, 1870-1960*. Cambridge, UK: Cambridge University Press.

## **WEEK 3: International Law: Great Power Politics by other Means**

Hannah Arendt. 1951. Chapter 9. "Decline of the Nation-State and the End of the Rights of Man. Pp.266-302 in *The Origins of Totalitarianism: Imperialism (vol. 2)*. New York: HBJ Books.

Carol Anderson. 2003. "Introduction" (pp.1-7), Chapter 1 "Beyond Civil Rights: The NAACP, the UN, and Redefining the Struggle for Black Equality" (Pp8-58), part of Chapter 2, "The Struggle for Human Rights: African Americans Petition the UN." (pp58-77). *Eyes Off the Prize. The United Nations and the African American Struggle for Human Rights 1944-55*. Cambridge University Press.

Morgenthau, Hans J. 1960. Chapter 18, "The Main Problems of International Law," Pp. 275-311 in *Politics Among Nations (third edition)*. New York: Alfred A. Knopf.

## **WEEK 4: Networks: NGOs in the World Society**

Emmanuel Adler. 1992. "The Emergence of Cooperation: National Epistemic Communities and the International Evolution of the Idea of Nuclear Arms Control." *International Organization*. (46)1:101-145.

Thomas Risse and Kathryn Sikkink. 1999. Chapter 1 "The Socialization of Human Rights Norms into Domestic Practices: An Introduction." Pp. 1-38 in *The power of human rights : international norms and domestic change*, edited by Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink. Cambridge, UK: Cambridge University Press.

Kathrin Zippel. 2004. "Transnational Advocacy Networks and Policy Cycles in the European Union: The Case of Sexual Harassment." *Social Politics*. 11(1):57-85.

## **WEEK 5: Regimes and Courts**

Beth Simmons. 2009. *Mobilizing for Human Rights: International Law in Domestic Politics*. Cambridge : Cambridge University Press. Some chapters.

Keohane, Robert, Macedo, Stephen and Andrew Moravcsik. 2009. "Democracy-Enhancing Multilateralism. *International Organization*. 63(4):1-31.

Andrew Moravcsik. 2000. "The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe." *International Organization*. 54(2):217-252.

### **WEEK 6: Fields: the *Habitus* of International Lawyers**

Movie: "The Terror's Advocate"

Dezalay, Yves, and Bryant Garth. 2002. "Chapter 1, 2, 3, 5. . Pp. 3-60, -98-140. In *The Internationalization of Palace Wars: Lawyers, Economists, and the Contest to Transform Latin American States*. Chicago: University of Chicago Press.

Bourdieu, Pierre. 1987. "The Force of Law: Toward a Sociology of the Juridical Field." *Hastings Law Journal* 38:805–53.

Hagan, John and Ron Levi. 2005. "Crimes of War and the Force of Law." *Social Forces*. 83:1499-1534.

Dezalay, Yves and Bryant Garth. 2008. "National usages for a 'global' science: The dissemination of new economic paradigms as strategy for the reproduction of governing elites." Pp. 155-180 in *Global Science and National Sovereignty: Studies in Historical Sociology of Science*, edited by Grégoire Mallard, Catherine Paradeise and Ashveen Peerbaye. New York: Routledge.

### **WEEK 7: Recursivity: An Iterative Approach to Rule Making**

Movie: "The New Rulers of the World" by John Pilger

Fligstein, Niel and Alec Stone Sweet. 2002. "Constructing Politics and Markets: An Institutionalist Account of European Integration." *American Journal of Sociology*. 5(2):1206-43.

Halliday, Terrence C. and Bruce G. Carruthers. 2007. "The Recursivity of Law: Global Norm Making and National Lawmaking in the Globalization of Corporate Insolvency Regimes." *American Journal of Sociology*. 112(4):1135-1202.

Scheppele, Kim Lane. 2006. "The Migration of Anti-Constitutional Ideas: The Post-9/11 Globalization of Public Law and the International State of Emergency." In *The Migration of Constitutional Ideas*, edited by Sujit Choudhry. Cambridge: Cambridge University Press.

### **WEEK 8: Legal interpretation: Global legal pluralism**

Grégoire Mallard. 2011. "Crafting the Nuclear World Order (1950-1975): Dynamics of Legal Change in the Field of Nuclear Nonproliferation."

Daniel Halberstam 2010. "Local, Global and Plural Constitutionalism: Europe Meets the World." In *The Worlds of European Constitutionalism*, edited by Grainne de Burca, Joseph Weiler. Cambridge: Cambridge University Press.

David Kennedy. 4 March 2006. "One, Two, Three, Many Legal Orders: Legal Pluralism and the Cosmopolitan Dream." Paper delivered at the International Law Association, British Branch University College London and School of Oriental and African Studies.

## **Week 9: The Constitutionalization of International Law in Question**

Habermas, Jürgen. 2004. "Does the Constitutionalization of International Law Still Have a Chance?" Pp.115-150 and Pp.179-203 in *The Divided West*. New York: Polity.

Walker, Neil. September 2004. "The Legacy of Europe's Constitutional Moment." *Constellations*. 11(3)

Koskeniemi, Martti. 2007. "Constitutionalism as Mindset: Reflections on Kantian Themes About International Law and Globalization." *Theoretical Inquiries in Law*. 8(1): 9-36.