PluriCourts

Centre for the study of the legitimacy of the international judiciary

2018

Norwegian Centre of Excellence

The Research Council of Norway

PLURI COURTS

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2018 at a glance...

an active year for PluriCourts

Our efforts in past years yielded a very strong range of publications. In 2018 we have published thirty two articles, eight books, and twenty six chapters in anthologies.

Four new anthologies were added to our series Studies on International Courts and Tribunals with Cambridge University Press:

- *Legitimacy and International Courts*, edited by Nienke Grossman, Harlan Grant Cohen, Andreas Follesdal and Geir Ulfstein
- *The Legitimacy of International Trade and Tribunals*, edited by Robert Howse, Hélène Ruiz-Fabri, Geir Ulfstein, Michelle Q. Zang
- *The Performance of International Courts and Tribunals*, edited by Theresa Squatrito, Oran R. Young, Andreas Follesdal, Geir Ulfstein
- *International Courts and Domestic Politics*, edited by Marlene Wind

We continue to host a broad range of publication-oriented conferences conducted in Oslo and abroad. We are implementing our new research plan addressing cross-cutting dimensions among a broader range of international courts. Several workshops have gathered experts to consider such lessons to be learned, including questions about the roles of international courts and global public goods. We have two new Research Council of Norway projects that received funding in 2017 have started up. Coordinator Freya Baetens' team for "State Consent to International Jurisdiction: Conferral, Modification and Termination" was established with the hiring of PhD fellows Emma Brandon and Nicola Strain. Coordinator Ole Kristian Fauchald hired PhD fellows Laura Letourneau-Tremblay and Runar Lie for his project on "Responses to the 'legitimacy crisis' of international investment law (LegInvest)".

We have also engaged with the Faculty of Law to explore the legacy of PluriCourts. This includes an inter-faculty PhD course, and "Ryssdalseminaret", an annual seminar with Norwegian judges.

PluriCourts is well-established in the international research field, attracting visiting scholars and serving as a platform for our young scholars' career development.

In 2018, several of our researchers moved on to other positions. Postdoctoral fellow Michelle Zang is now a senior lecturer at Victoria University of Wellington. Taylor St. John became a lecturer at University of St Andrews. We wish them all good luck in their future careers.

In 2018 we also welcomed a number of new staff members to PluriCourts. In addition to the four new PhD fellows, we

received a new postdoctoral fellow – Martin Westergren. Former postdoctoral fellow Daniel Behn returned as Associate Professor, affiliated with the LegInvest project. Gro Høye Kvigne joined the administrative team and Emma Carrol and Victoria Skeie started working as research assistants during the spring semester.

PluriCourts has an ambition to be an inspiring and inclusive workplace for all team members, not only at work, but also at play. In 2018, we organized a range of social activities, including participation in the Holmenkollen relay, dinners and payday café gatherings. Our Thursday lunch quizzes are famous. We hope that 2019 also will be academically stimulating, successful and fun!

Spotlight on
highlights from 2018

Brandeis Institute for International Judges

"The Legitimacy of International Courts: Challenges and Responses"
A version of this text, written by Leigh Swigart, Andreas Føllesdal and Geir Ulfstein, was previously published on the IntLawGrrls blog.

In Oslo, 30th May to 2nd June, fifteen judges from thirteen international courts drafted and finalized a set of recommendations aimed at reinforcing the legitimacy of institutions of international justice. These were the participants of the 2018 session of the Brandeis Institute for International Judges (BIIJ), organized collaboratively by the International Center for Ethics, Justice and Public Life, of Brandeis University, and PluriCourts.

Over the course of the BIIJ, participants examined carefully how some international courts are currently experiencing 'pushback', be it from member states, civil society groups, or even their own parent bodies. The World Trade Organization (WTO) Appellate Body, for example, finds itself at a critical juncture. The United States has recently blocked all new appointments to its seven-member bench, which will soon bring its important trade dispute resolution work to a standstill. The International Criminal Court (ICC) has heard noise about withdrawal by some member states in response to action by its Prosecutor to examine crimes upon their territories. More generally, international courts and tribunals feel a waning of the late 20th century enthusiasm and support for international justice institutions. BIIJ judges clearly realize that a proactive response on the part of institutions may help them to negotiate current conditions

The Recommendations, which BIIJ participants drafted and endorsed in their personal capacities, articulate relevant policies and activities in five arenas: nomination and selection of international judges; ethics and judicial integrity; efficiency of proceedings; transparency of proceedings and access to judicial output; and role of judges in outreach and interactions with the public.

We find it first of all important that the fifteen international judges acknowledge the legitimacy challenges facing international courts. It is also significant that the judges believe that both courts and members of their benches have a responsibility to address these issues, and that such sponsibility goes beyond what is the 'primary work of international judges', i.e. to 'produce well-reasoned and timely judgments'.

In the section devoted to the nomination and selection of international judges, the Recommendations emphasize the importance of having multiple candidates for judicial vacancies and the need to consider diverse candidates. The document also broaches the question, perhaps publicly for the first time, of establishing age limits for judicial nominees to ensure the ongoing fitness of international judges over the length of their terms. A final provision in this section addresses the need for nomination and selection authorities to ensure that international judges may carry out their work with independence and in security.

The section on ethics and judicial integrity deals with judicial culture in the court as well as ethical issues. It is notable that the judges felt a need to emphasize that dissenting and separate opinions should 'be delivered with restraint and formulated in respectful language so as not to undermine the authority of the court'.

The provision that '[e]ach international court should have a code of judicial ethics whose provisions are well known to judges' would seem obvious and unnecessary to mention. Nevertheless, some BIIJ 2018 participants reported that while their institutions may have already formalized a set of ethical guidelines, new members of the bench may not be introduced to them nor even be aware of their existence. The guidelines then lose their positive potential. It is also unusual for international courts, faced with alleged ethical violations by a judge, to appoint 'an external committee… composed of individuals with relevant knowledge and experience to conduct the investigation and make recommendations'. Some newer institutions have instituted such measures, and this inspired BIIJ 2018 participants to examine the benefits of such an approach. This provision of the Oslo Recommendations thus underscores the wisdom of not confining consideration of potentially serious ethical breaches to internal procedures behind closed doors.

Other provisions of the Recommendations address issues that not infrequently lead to public criticism of international courts. International judicial proceedings may be inefficient and overly lengthy; their judges may take on too much outside work to the detriment of their judicial responsibilities; proceedings cannot always be followed remotely by interested parties; judgments and other judicial output may not be posted or archived in such a manner as to be easily accessible by scholars, other courts, and the larger public; and messaging and outreach by international courts sometimes suffer from inaccuracy and inconsistency.

The Oslo Recommendations for Enhancing the Legitimacy of International Courts represent an initial step toward initiating reforms in institutions of international justice that might help them to secure their standing on the world stage. Significantly, this first step has been made collectively by individuals whose positions serve as the fulcrum upon which the entire international justice system balances.

Identity on the International Bench

Over the course of 2018, Prof. dr. Freya Baetens organised three conferences in The Hague, bringing together scholars and practitioners to discuss different aspects of the identity of adjudicators sitting on a wide range of international benches.

Given the proliferation and growing prominence of international courts and tribunals, particular attention should be paid to those who hold the power of decision over questions involving sovereignty over territory, grave human rights violations, international crimes, or millions of dollars' worth of economic interests. This project explored the implications of adjudicators' identity and diversity for the legitimacy of international courts and tribunals; and summarises the volume's contribution to the existing literature through the range of factors, institutions, and stages examined, with the latter covering not only appointment processes, but also adjudicators' time on the bench and their legacy.

The legitimacy of courts and tribunals can be either normative (does the court have the requisite authority to issue binding decisions?) or sociological (is the court seen to have the requisite authority to do so?). Diversity concerns may relate to both aspects: when people with diverse backgrounds 'think differently' on certain legal issues, increased diversity can overcome the bias inherent in a singular viewpoint, thereby strengthening the normative legitimacy of the court. Even if people with diverse backgrounds do not 'think differently', as long as they are perceived to be doing so, this can enhance the court's sociological legitimacy. Calls for increased diversity tend to be accompanied by two main justifications: deontological and consequentialist. The deontological approach, treating diversity as a good in and of itself, is commonly reflected in calls for democratic legitimacy among the international judiciary. The consequentialist approach, meanwhile, places value not on diversity as such, but on the impact that the diverse perspectives brought by the judges and arbitrators may have on the judgments. In particular, it appears that greater importance is attached to the identity (and likely the diversity) of the adjudicators where adjudicatory bodies lack a strong (permanent) institutional framework, as in the case of investment arbitration.

In terms of potential challenges, the concern is raised from time to time that diversity requirements may work to the detriment of adjudicators' quality. This perceived tension between diversity and quality relies on the assertion that the reason why certain groups are underrepresented is because there is only a 'limited pool' of suitably qualified candidates from that group. However, there are a number of factors that run counter to this narrative, including the already often politicised nature of selection processes; the limited number of seats to be filled (and thus qualified candidates required); and that essentially no-one has the 'ideal' set of qualifications to be an international judge. Another challenge – related to the question of how much diversity is required or deemed sufficient to ensure the legitimacy of the court or tribunal – is posed by states treating diversity requirements as an exercise of simply 'ticking the box', rather than meaningful engagement with the underlying issues.

There is relatively little regulation on most aspects of diversity on the international bench; and in the absence (sometimes even in the presence) of such rules, election and appointment practices reveal significant imbalances in representation. Existing regulation tends to relate mainly to geographical representation and legal systems, and occasionally (and more recently) to gender. As regards appointment practices, there appears to be some variation between different fields of law in terms of adjudicators' most common profile, with for instance trade panellists often coming from a low-profile non-law governmental background, while investment arbitrations tend to be high-profile specialist lawyers. In arbitration, where litigants are free to appoint their own adjudicators, the diversity of arbitrators shows a similarly poor record to standing courts. Furthermore, efforts to achieve diversity in the (s)election processes for international courts are further complicated by the fact that judges tend to face a two-stage process, consisting of a domestic and an international phase. It appears that in general, greater emphasis is placed on diversity considerations by independent appointing authorities, such as the WTO, ICSID and PCA secretariat.

A number of presented papers has been selected for publication in an edited volume.

Gender: identity
11th-12th January

Geography and Legal Culture:
17th-18th May

Religion and Ethnicity :
4th-5th October

The first year of State Consent to International Jurisdiction

Establishing the SCIJ team

In January 2018, a vacancy was announced inviting applications for the two doctoral fellowships that are part of the project on State Consent to International Jurisdiction (SCIJ). Dozens of interested and qualified candidates from all over the world applied for these positions, allowing for a competitive selection process. An eminent committee consisting of ICJ Judge Peter Tomka, Prof. dr Mads Andenæs, Prof. dr. Geir Ulfstein and Prof. dr. Freya Baetens reviewed all applications and eventually decided that Emma Brandon and Nicola Strain would be best-suited to join the team. Both PhD fellows began working at PluriCourts in September 2018.

Emma Brandon's research interests include international criminal law, international human rights law, and international humanitarian law. She holds a Juris Doctor degree (JD) from the American University Washington College of Law (2014-2017) and a Bachelor of Arts degree (BA) in International Relations and Political Science from Boston University (2009-2013). She has previously held positions at the International Criminal Court (ICC) and the Public International Law and Policy Group (PILPG).

Nicola Strain's research interests include international trade law, international investment law and international dispute resolution. She holds a Master of Law degree (LLM) from the University of Cambridge (2017-2018) and Bachelor of Laws (LLB) and Bachelor of Arts (BA) degrees from the University of Western Australia (2007-2012). She has previously worked as a lawyer for a leading commercial law firm in Australia, Clayton Utz, practicing in commercial dispute resolution and competition.

Doctoral candiate Emma Brandon (left), Professor Freya Baetens (centre), and Nicola Strain (right) at 'Reforming International Investment Arbitration ' workshop. Photo: University of Oslo.

Setting up the SCIJ project

The team have begun work on the creation of a user-friendly consent database providing all "consent documents" in a centralized manner. During the first year, the team have collected and mapped declarations by which states have conferred their consent to the jurisdiction of the International Court of Justice, the World Trade Organization (WTO) Dispute Settlement Body, the International Criminal Court, the United Nations Convention on the Law of the Sea dispute settlement mechanism, the International Centre for the Settlement of Investment Disputes, the European Court of Human Rights, the Inter-American Court of Human Rights, and the African Court of Human and Peoples' Rights. In addition, the PhD Fellows have begun work on their PhD projects.

Setting up the PhD projects

Emma Brandon's project investigates the international obligations of states between signature and ratification of a treaty granting jurisdiction to an international criminal or human rights tribunal. It looks at rules under the law of treaties as well as criminal and human rights law that impose obligations on states vis-à-vis these tribunals during this time. The project considers how a clarification of these obligations would assist international tribunals in soliciting cooperation and assistance from states and provide for the confident and consistent enforcement of these obligations against states who are reluctant to comply.

During the first year, Brandon has begun laying out the methodical framework, describing the factual background of states that have signed but not ratified the relevant treaties, and delving into states' relevant obligations under the Vienna Convention on the Law of Treaties. Next, she will analyse obligations under international human rights law that require states to provide certain types of assistance, such as the provision of evidence, to international tribunals.

Nicola Strain's project considers the approach of the WTO Panels and Appellate Body and investor-state arbitral tribunals to jurisdiction over questions of public international law. She aims to provide a coherent definition of, and distinction between, jurisdiction and applicable law in order to prepare a comparative analysis of the two systems' approaches to interpreting State consent.

During the first year, Strain has begun to gather the primary consent documents and literature on jurisdiction under international law. She has also started to consider a methodological framework to assess how these dispute settlement systems' approaches to jurisdiction balance the normative considerations of the primacy of State consent against the efficiency of international dispute resolution. Next, she will undertake a case law analysis to determine the interpretation of jurisdiction by these dispute settlement systems.

Expert Symposium on the Role of International Courts in Protecting Environmental Commons

Pluricourts together with the Climate Change Specialist Group of the IUCN World Commission on Environmental Law, the Environmental Law Program (ELP) at the University of Hawai'i at Mānoa, William S. Richardson School of Law, and the University of Hawai'i Law Review, organized a symposium on "The Role of International Courts in Protecting Environmental Commons". The symposium took place at the William S. Richardson School of Law, University of Hawai'i at Mānoa, Honolulu, on 9 November 2018.

During the symposium, participants inquired into the role(s) of international courts and tribunals (ICs) in dealing with issues related to environmental commons. "Environmental commons" in this context were broadly defined as areas, activities, interests and rights/obligations that are of concern for a broader set of actors than just the parties to a dispute. As a compound concept, it was understood to capture both environmental concerns with regard to areas beyond national jurisdiction (global commons), global environmental public goods, common concerns with or common interests in specific environmental issues that are of a nature that goes beyond the sovereign interest of any particular state.

This symposium gathered experts to discuss whether international courts are "guardians" of environmental commons – or not; which role(s) they play in the protection of collective environmental interest and which limitations and opportunities they face when dealing with disputes, or requests for advisory opinions that deal with legal interests of broader, even global, application. It also offered some reflections on alternatives for more, and more effective involvement of ICs in issues that are of common interest.

Participants concluded that ICs, for example, have the role of clarifying legal rights and obligations with respect to common goods. They resolve disputes, but also clarify and develop the law more generally through their reasoning. In doing so, they also have wider aggregate effects beyond the legal claim itself, for example promoting stability, predictability and economic development.

Speakers included: Prof. Dan Bodansky (US), Justice Michael Wilson (Supreme Court, Hawaii), Justice Antonio Benjamin (High Court, Brazil), Prof. Christiane Derani (Brazil), Prof. Lakshman Guruswamy (Sri Lanka/US), Prof. Bharat Desai (India), Reader Francesco Sindico (UK), Prof. Sumudu Atapatu (US), Prof. Erick Kassongo (DR Congo), Prof. Markus Gehring (UK/Canada), Prof. Margaret Young (AUS), Prof. Marie Claire Cordonier Segger (UK), Prof. Denise Antolini (HI), Prof. David Forman (HI) and Prof. Christina Voigt (Norway/Hawaii).

On November 10th, ELP faculty and students and members of the UH Law Review organized a Roundtable Discussion on "The Role of International Courts in Protecting the Global Commons," featuring the Symposium's distinguished guest speakers.

Several of the presented papers will be published in the upcoming edition of the University of Hawaii Law Journal.

Lawful casualty or victim of a war crime?

In her new book, Fighting and the Victimhood on International Criminal Law, Joanna Nicholson, Postdoctoral Fellow at University of Oslo, investigates how some international criminal courts have untangled those who were legitimate military targets from those who were victims of international crimes.

International law protects fighters and civilians differently. Establishing who has been a victim of a war crime and who has been a lawful casualty of war is not always easy. As part of her research, Nicholson clarifies how the act of fighting can make a difference in the context of when an individual can qualify as a victim of an international crime.

Nicholson explains that courts have not always been as careful as they should be at determining whether a particular individual was a lawful casualty of war rather than a victim of a war crime.

The book has chosen to emphasize crimes that can be committed against two specific groups: child soldiers and peacekeepers.

Child soldiers

In recent decades, child soldiers have become a regular feature of some armed conflicts.

Children are appealing to some armed groups as their youth can make them easier to manipulate and more fearless than adults. They can be used for a wide variety of tasks: as bodyguards; domestic help; sexual slaves; food gatherers, as well as being directly involved in fighting.

The recruitment and use of children under the age of fifteen to participate actively in hostilities, is recognized as a war crime under the Rome State of the International Criminal Court. This prohibition applies to both governmental groups and non-state armed groups.

Still a legitimate target

However, the idea that childhood ends at a certain age is primarily a western construct, Nicholson points out. Other cultures may use different milestones for determining when adulthood has been reached. For example the fact that a particular child can handle a weapon. Nicholson explains that cases from international criminal courts have been helpful in publicizing the international crime of the recruitment and use of children under the age of fifteen.

"Although only a few cases have been brought before international courts, they have helped spread the message that the recruitment and use of children under fifteen in armed conflicts is a war crime," says Nicholson.

Nicholson also highlights that even though the recruitment and use of children under 15 is a war crime, when children are used by armed groups to directly participate in hostilities, for example, if they actively take part in a battle, it is not a war crime for the opposing forces to attack them.

According to international law, the child soldiers continue to be a legitimate military target despite their age.

Peacekeepers

Peacekeepers are civilians and are protected from attack. They are, however, often placed between warring parties.

Although their mission is to help the peace process in war-torn countries, they unfortunately can themselves become the victims of attacks. Recently 14 UN peacekeepers were killed in the Democratic Republic of Congo by Islamic extremists.

"Peacekeepers are mandated to maintain or restore international peace and security. They serve under the banner of the United Nations, and as such they represent the global community. Crimes against them merit special attention by international criminal courts," Nicholson says.

Peacekeepers can lose their civilian protection

Targeting peacekeepers constitutes a crime under international criminal law. However, when considering attacks against peacekeepers, international criminal courts have to be careful to ensure that the peacekeepers' actions have not made them lose their civilian protection.

This occurs through the peacekeeping force being drawn into the conflict and becoming a party to the conflict; or through individual peacekeepers acting beyond the limits of self-defense.

Once civilian protection is lost, attacks against peacekeepers may be lawful acts of war rather than war crimes. International criminal courts have to be careful to assess whether in the circumstances of a particular case, the peacekeepers have retained their civilian protection.

Nicholson argues that fighting can have implications for victimhood and she hopes that her research will help guide international criminal courts in future cases.

This review, previously published on sciencenordic.com, was wriiten by Laura Letourneau-Tremblay

"In the intervening century, the nature of warfare has changed: today it is civilians who bear the brunt of war."

Fighting and Victimhood in International Criminal Law

The book "Fighting and Victimhood in International Criminal Law" is authored by Joanna Nicholson and published with Routledge as part of a series entitled Routledge in international Law.

Is there a bias against developing states in investment treaty arbitration?

Poor states have a much smaller chance of winning an investment treaty arbitration case than rich states. Is this because of their lack of wealth or because of the lack of quality of their governance?

Since the mid-2000s, researchers and practitioners have discussed systemic deficiencies in the investment treaty regime. The legitimacy of investment arbitration in particular, has come under question. Some argue that the system favors the investors and their private property interests over the host states' opportunity to change regulations and legislation to the better for the public. According to them, this bias has nothing to do with the state's economic and political background. Others claim that investment treaty arbitration (ITA) is biased against developing states, the so-called anti-developing state bias. This means that investors are more successful in cases against developing states than they are in cases involving more developed states.

So far, there has been little empirical research done on outcome asymmetries in investment treaty arbitration, and the results of the research have been mixed. Associate Professor II Daniel Behn explains "We wanted to assess the claim that there is a bias against developing states, using data from the PluriCourts Investment Treaty Arbitration Database (PITAD)."

Empirical research on Investment Treaty Arbitration

One of the challenges of doing empirical research within this field has been the lack of data. Researchers at PluriCourts has created a solution for this challenge, by building PITAD – a large database containing all the available ITA cases. The database is continuously updated, and includes information from several sources.

"Using the database, we wanted to test the conflation theory – the idea that the anti-developing state bias in investment treaty arbitration has to do with the developing countries' domestic governance structures, and not their lack of wealth", says PhD Fellow Tarald Laudal Berge.

This can be challenging to find out, since the economic development level of a country and its levels of democracy often is intertwined.

Economic or democratic bias – could it be both?

There are several reasons why a state's economical level could affect the results of investment treaty arbitration. First, litigation in these cases is expensive, which means that it can be difficult for less developed states to cover the costs. They do not necessarily have experts on international economic law available, and may not be able to afford a good defense. It could also be more difficult for poor states to offer compensation to investors who claim that the state has violated their agreement, to avoid a trial.

"It is difficult to define a states' economic development status, and to find reliable data that can be used to say something about this", says Professor Malcolm Langford. "We chose gross national income (GNI) per capita because it gives us more information than the World Bank's four-category income groups (WBIGs)".

The researchers also found it challenging to assess states' quality of governance. They chose six different characteristics of respondent states that could say something about whether there is a state-level bias in investment treaty arbitration – political regime stability, degrees of executive constraints, bureaucratic quality, strength of property rights protection, independence and quality of the judiciary and levels of political corruption. They also included eight controls that could affect the outcome patterns.

"The most striking initial finding was that investors have a more than four times better chance of winning cases against a low-income respondent state than a high-income responding state, and the differences are even greater when we include settled cases. If the conflation theory is correct, we should be able to explain this based on the quality of the states' governance", Malcolm Langford says.

In the analysis, the researchers found that all six indicators reduced the effect a state's economic status had on the result of an ITA outcome. The effect was most significant for the indicators impartial bureaucracies and property rights protection. These two cancelled out the effect of economic development on ITA outcomes. In other words, if a developing state has a bureaucracy that is not affected by political pressure and/or a functioning legislation for protecting private property, they have a better chance of winning in a case even if it is poor. However, these two indicators also had an effect on rich states chances of winning. "This is not surprising, considering that these two factors are important for investors when they decide whether to invest in a state or not", Daniel Behn explains.

The research findings suggest that there is some truth in the conflation theory, but only for these two indicators. With the four other indicators, the economic factor still has a solid impact on ITA outcomes. This means that both economic development and quality of governance have an effect on investment treaty arbitration.

What will happen with investment treaty arbitration?

The empirical based research on investment treaty arbitration is still in the starting phase, and more research is needed to explain the background for the decision making process in arbitration. There are several topics that needs to be studied, for example other types of potential arbitrator bias.

The questions regarding the legitimacy of investment treaty arbitration that has risen the last decade has led the United

ARTICLE

Behn, Daniel, Tarald Laudal Berge, Malcolm Langford. "Poor states or poor governance? Explaining outcomes in investment treaty arbitration". 38 (3) *Northwestern Journal of International Law and Business.* (2018) 333-389.

From left to right: Tarald Laudal Berge and Malcom Langford.

Nations Commission on International Trade Law (UNCITRAL) to assess the necessity of creating a court for these cases. Gender balance, the selection of arbitrators and the potential problem of double hatting, are all challenges the system are facing. In an UNCITRAL working group meeting held in Vienna this fall, the members/participants referred to both research done by PluriCourts researchers and to the PITAD database.

"We are proud to be a part of this process, and happy that our research can provide a scientific ground for the future of international investment law. Our hope is that better and more empirically driven research can help illuminate if the criticism against the ISDS system is based on facts or assumptions."

Researchers meet the European Court of Human Rights

Highlights from the workshop Responding to Legitimacy Challenges: Opportunities and Choices for the European Court of Human Rights, 21st September 2018 (written by Victoria Skeie).

PluriCourts arranged a workshop at the European Court of Human Rights together with the Netherlands Institute of Human Rights (SIM), Montaigne Centre at Utrecht University, Human Rights Centre at Ghent University, Koc University Centre for Global Public Law, and the Hertie School of Governance. This International Workshop on 'Responding to Legitimacy Challenges: Opportunities and Choices for the European Court of Human Rights' brought together a select group of academics and professionals at the Court, including both judges and members of the Registry. This workshop analysed the different challenges that are facing the Court, with opportunities for academics, judges and Registry staff to engage in informal dialogues and exchanges. Vice President Angelika Nußberger and PluriCourts Co-Director Andreas Føllesdal opened the conference and noted the importance of academia and the Court working together.

Subsidiarity and legitimacy challenges

The first panel discussed subsidiarity and legitimacy challenges. Chaired by Janneke Gerards, this panel had a presentation by political scientists Øyvind Stiansen and Erik Voeten, with statistical data on the decision-making by the judges at the Court. This session also examined the reasoning and legitimacy around Article 3, presented by Elaine Webster, and finished with Ed Bates's presentation on the concept of subsidiarity. After these presentations, Vice President Angelika Nußberger responded to each, and kicked off the discussion and questions from the rest of the room. Several judges joined the workshop and participated in the discussion.

Dialogue and relations with national judges

After lunch, Basak Cali chaired the panel entitled 'Dialogue and relations with national judges'. Gregory Davies examined the judicial relation between the UK and Court, and this was followed by Raphaella Kuns, addressing domestic courts and constructive contestation. This presentation drew links to the Inter-American Human Rights System which was also a topic in the discussion afterwards. Judge Paulo Pinoto de Albuquerque delivered comments to both of these papers, which both of the speakers responded to.

Remedies and compliance with judgements

The final session, 'Remedies and compliance with judgements', was chaired by Antoine Buyse, with Judge Ganna Yudkivska delivering comments. The first presenters were Alice Donald and Anne-Katrin Speck, on 'The developing remedial practice of the European Court of Human Rights and its implications for the legitimacy of the

From left to right: Janneke Gerards, Vice-President Angelika Nussberger, Andreas Føllesdal, Elaine Webster, Ed Bates, Erik Voeten, and Øyvind Stiansen at the European Court of Human Rights, Strasbourg, France. Photo: Ann-Katrin Speck

ECHR system'. Lize Glas had written a paper about the Burmych and Others v. Ukraine case, with regards to deviation and repetitive applications. The final presenter, Andreas von Staden presented a paper on improving compliance and the court's perceived legitimacy with regards to the margin of appreciation.

Comments from keynote listeners

After the discussion following from these presentations, a new type of panel was organized called 'keynote listeners'. Selected members of the Court and registry who had joined for the whole workshop and engaged throughout the day responded to the general themes and issues raised. Eva Brems chaired this session and asked insightful questions which led to the panel sharing their own experience from working at the Court. This was valuable for researchers who spend time researching exactly how the Court functions. Judge Robert Spano also responded to what he has, coincidentally, coined 'the age of subsidiarity', and expanded on the arguments made in his paper, "Universality of Diversity of Human Rights? Strasbourg in the Age of Subsidiarity". This panel was very stimulating and insightful for all groups, and it was interesting hearing from the head of the Registry, Olga Chernishova. The evening was concluded by a reception at the Norwegian Ambassador's residence, where the discussion between the different groups continued in an informal setting.

Future dialogue

The aim of this workshop was to create an informal exchange by these two groups, who otherwise, when meet, do so under more formal circumstances. By illuminating the issues that the Court faces, the workshop hoped to facilitate discussion on possible solutions and remedies. One example included the discussion on tabloids who, effectively, try to delegitimize the Court's work. One suggestion from an academic included writing more comprehensive judgements that could clarify cases for journalists. In this instance, the judges were able to explain what goes into writing judgements, and their worry that journalists are unlikely to read the full-length judgements. This spurred the discussion to consider the work-load of the Court in balancing incoming applications. This type of free-flowing dialogue and the response from all groups after the conclusion of the workshop was overwhelmingly positive. Several people believed they could benefit from a similar workshop again in the future, which PluriCourts is looking forward to planning.

Photo sourced from Wikipedia

Annual Conference

– a medley of law, political science and philosophy

This years annual conference was marked by a public lecture given by Professor Samantha Besson (University of Fribourg) at Litteraturhuset, followed by full-day conference presenting PluriCourts' current and future research projects.

Our 2018 annual conference took place between the 21st-22nd June, on a few particularly sunny days in Oslo.

Public Annual Lecture

It commenced with the annual lecture, held by Professor Samantha Besson, from the University of Fribourg. Her lecture was entitled 'International Courts and the International Jurisprudence of Statehood'. She purported that over the years, ICs have not only been specifying the existence, content and scope of States' duties and responsibilities in various regimes of international law, but they have also contributed to the continuous legal definition and delineation of States themselves. In the lecture, Professor Besson focused on the case-law of three international courts – the International Court of Justice, the European Court of Human Rights and the Court of Justice of the European Union, paying particular attention to the jurisprudence of statehood.

Photo: Professor Samantha Besson

PluriCourts' research presentations

On the second day of the conference, PluriCourts' researchers presented ongoing work and the results of their research.

There were presentations on a number of new publications from the PluriCourts' researchers. Geir Ulfstein gave an introduction to the anthology *The Legitimacy of International Trade Courts and Tribunals*, which is a part of the Oxford University Press Studies on International Courts and Tribunals Series. Matthew Saul presented the anthology *The International Human Rights Judiciary and National Parliaments: Europe and Beyond*, which he edited alongside Andreas Føllesdal and Geir Ulfstein. Taylor St. John introduced her monograph *The Rise of Investor–State Arbitration: Politics, Law, and Unintended Consequences*.

Ole Kristian Fauchald and Øyvind Stiansen presented their current research.

Professor Fauchald discussed his new research project 'Responses to the 'legitimacy crisis' of international investment law', dubbed LegInvest. The project's primary objective is to determine the relative importance of investment treaty arbitration (ITA) for the design of international investment agreements (IIAs) and the relative importance of (re-) design of IIAs for ITA. Two new doctoral candidates join us at Pluricourts as part of this project; Runar Hilleren Lie and Laura Letourneau-Tremblay.

Øyvind Stiansen presented his work on 'Facilitating Compliance with Judicial Decisions: Lessons from the International Human Rights Judiciary'. This work was done utilizing two new datasets on compliance from the European Court of Human Rights and Inter-American Court of Human Rights judgments. These were formed in collaboration with Georgetown University, and with Daniel Naurin and Live Standal Bøyum. He concluded that PluriCourts, now, has the data required for studying what affects compliance and that increasing the specificity of judgments and avoiding challenges to the legal authority of judgments appear to be useful strategies for increasing compliance.

Fullbright Scholars

For the academic year 2017 / 2018 PluriCourts welcomed two Fulbright fellows – Dr. Jacqueline McAllister from Kenyon College and Professor Jeffrey Kahn from Southern Methodist University.

Professor Jeffrey Kahn

Dedman School of Law, Southern Methodist University

Why did you choose to be a guest researcher at PluriCourts?

There is no better place in the world to conduct my research, which focuses on Russian and British relations with the Council of Europe in general and the European Court of Human Rights in particular. PluriCourts is a leader in the study of international courts. Its reputation attracts talented researchers from many disciplines who build friendly, constructive spaces to work and share ideas. The directors facilitate a supportive and vibrant community of scholars. Its location put Moscow, London, and Strasbourg all within easy reach for study visits and conferences. And Oslo is a family-friendly city in which to live.

How did your stay at PluriCourts affect your research?

PluriCourts helped me to launch a new book project and several articles, one of which is forthcoming in the European Journal of International Law. During the year I spent at PluriCourts, I gave lectures in Helsinki, Leuven, Moscow, Oslo, and Oxford, and made study visits to London, Petersburg, and Strasbourg. I made new professional acquaintances and developed strong friendships at PluriCourts and elsewhere in the University of Oslo. Returning to my home institution, I designed an advanced-level seminar for my students that benefitted greatly from my exposure to new ideas and resources at PluriCourts. It was a productive and enjoyable year.

What would you recommend to other researchers who would like to have a research stay at PluriCourts?

Plan your year with care, setting discrete goals to accomplish a research project thoughtfully designed well in advance. But be prepared to deviate from that plan occasionally to take advantage of unanticipated opportunities at PluriCourts, the University, and the city of Oslo. There is always something intellectually exciting happening here to contribute to, and sometimes distract from, a larger research agenda. But, no matter what, say yes when one of the directors asks if you would like to join him on a hike up Galdhøpiggen!

The Fullbright-PluriCourts partnership...

welcomes outstanding scholars to visit Oslo for shorter period of time, from six - ten months. During their stay at PluriCourts, the Fulbright Fellows are integrated into the team. They are welcome to attend all seminars and research group meeting, and contribute to ongoing research through active feedback, project integration, and an informal working environment.

Dr. Jacqueline R. McAllister

Assistant Professor, Department of Political Science, Kenyon College

Why did you choose to be a guest researcher at PluriCourts?

PluriCourts is at the forefront of interdisciplinary research on the role and effects of international courts and tribunals. A Fulbright at PluriCourts thus afforded me an incredible opportunity to complete my research while collaborating with a diverse community of experts.

How did your stay at PluriCourts affect your research?

PluriCourts affected my research in incredibly positive ways. Not only was my stay immensely productive (I completed two articles, as well as a working draft of a book manuscript), but working with an interdisciplinary team of scholars opened my eyes to new angles in my research. It was also inspiring to learn about other researchers' unfolding research projects, all of which are incredibly relevant for making sense of the judicialization of world politics. Moreover, the opportunity of engaging with international court professionals (e.g. lawyers, judges, prosecutors, and outreach personnel) helped me to make my own research more policy-relevant and oriented.

What would you recommend to other researchers who would like to have a research stay at PluriCourts?

PluriCourts was a wonderful host. The faculty and staff were incredibly welcoming and friendly. I would encourage guest researchers to take advantage of the Center's professional and social events, ranging from lunch seminars to daily lunches. These opportunities provide a wonderful way to learn about researchers' projects and other impressive activities in an informal, open way. They thus fuel creativity and inspiration. I would also encourage guest researchers to take advantage of press and blog activities, which can help them to better circulate and receive feedback on their work.

New at Pluricourts

In 2018 four new PhD candidates joined the team at PluriCourts.

Emma Brandon

Thesis Holding Signatories to Account: States' Obligations Upon Signing a Treaty Granting Jurisdiction to an International Criminal or Human Rights Tribunal

Background BA in Political and International Relations, JD

Hidden talent Foil Fencing

What is your project about?
As part of the State Consent to International Jurisdiction project, my project investigates the obligations that states have when they have signed but not yet ratified a treaty granting jurisdiction to an international criminal or human rights tribunal. The aim is to clarify these obligations so that these tribunals have a strong legal argument to ensure that these states provide vital assistance to the tribunals.

What originally attracted you to PluriCourts?
The opportunity to do research that I cared about in an interdisciplinary and international work environment.

What is your best first year memory?
Attending the "Ensuring and Balancing the Rights of Defendants and Victims at International and Hybrid Criminal Courts" Conference before I had even officially started work and finding myself surrounded by expert scholars and practitioners in my field.

Laura Letourneau-Tremblay

Thesis Environmental protection and international investment law

Background LLB (Université Laval), LLM (UiO)

Hidden talent Fermenting food and yoga!

What is your project about?
In my project, I aim at proposing options for increasing synergies between international investment law and environmental protection and further understand how adjudicative processes and treaty practice interact at the international level.

What originally attracted you to PluriCourts?
PluriCourts is somehow my second family... I have been affiliated with PluriCourts for some years already and I am very happy to be back!

What is your best first year memory?
I very much enjoy the 'Shut-up & Write' sessions that we organize with other PhDs.

Runar Hilleren Lie

Thesis A Computational Approach to Studying Development, Environment and Human Rights in the International Investment Regime

Background Master in Law

Hidden talent I can whistle both on out-breath and in-breath.

What is your project about?
The project aims to introduce a computational approach to studying the actors responses to development, environment and human rights provisions in the international investment regime.

What originally attracted you to PluriCourts?
The excellent empirical research being conducted, and the very pleasant and supportive work-environment.

What is your best first year memory?
Presenting a paper at the ASIL/CSIL conference one week after starting the PhD, and not getting rotten tomatoes thrown at me.

Nicola Strain

Thesis Jurisdiction and applicable law of the WTO and investor-state arbitration in relation to other public international law: balancing State consent and efficiency

Background BA, LLB, LLM

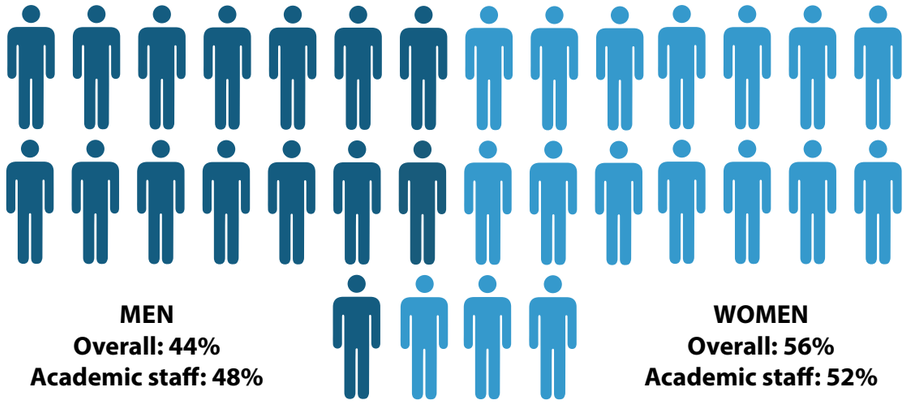
Hidden talent Baking lemon meringue pies

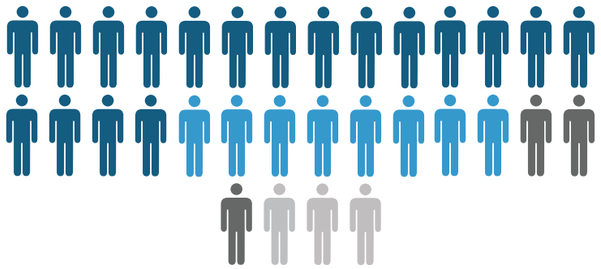
What is your project about?
My project explores the approach of the WTO and investor-state arbitration to dealing with other public international law raised in the dispute and how this approach balances considerations of State consent and efficiency.

What originally attracted you to PluriCourts?
I was attracted to the specialised international court focus of PluriCourts and the opportunity to work on a research project that really interested me.

What is your best first year memory?
Learning about the Norwegian custom of lønningspils.

PluriCourts in numbers





DISCIPLINES
Law: 28 (64%)
Pol.sci.: 11 (25%)
Philosophy: 5 (11%)
Administration: 4

NATIONALITY

Norway 42 %
Europe (other) 31 %
America 21 %
Asia 2 %
Australia and Oceania 4 %

The team

Management
Director Andreas Føllesdal
Co-director Geir Ulfstein
Administrative manager Siri Johnsen

Coordinators
Freya Baetens
Ole Kristian Fauchald
Daniel Naurin
Christina Voigt

Postdoctoral fellows
Szilárd Gàspàr-Szilàgyi
Mikael Holmgren
Silje Synnøve Lyder Hermansen
Joanna Nicholson
Juan Pablo Pérez-Léon Acevedo
Antionette Scherz
Taylor St John
Martin Westegren
Michelle Zang

PhD candidates
Tarald Laurdel Berge
Emma Brandon
Laura Letourneau-Tremblay
Runar Hillern Lie
Rosa Manzo
Øyvind Stiansen
Nicola Strain

Researchers
Daniel Behn
Silje Langvatn
Ester Elisabeth Jørgensen Strømmen
Morten Ruud

Research assistants
Stein Arne Brekke
Marcelo Campbell
Emma Carrol
Tanja Czelusniak
Victoria Skeie

Administration
Marit Fosse
Gro Elisabeth Høye Kvigne
Stephanie Schmölzer (on leave)

Guest researchers
Andrea Bjorklund
William Byrne
Leiry Cornejo Chavez
Felix Fouchard
Rosemary Grey
Petra Gyongyi
Jeffrey Kahn
Carola Lingaas
Jacqueline McAllister
Tommaso Pavone
Claire Poppelwell-Schevak
Matthew Saul
Vegard Tørstad

Events

68
in total

19
PluriCourts Lunch Seminars on topics pertaining to international courts and tribunals.

Human Rights Seminars, specializing on human rights courts.

3

6
International Criminal Law Lunch Seminars.

Reading groups on the most relevant publications on international courts and legitimacy in the fields of law and political science.

12

8
Political and Legal Theory Workshops.

2904 followers

398 followers

Conferences and workshops

11-12.01 Conference, Gender on the International Bench. The Hague

15-16.02 Workshop, General Principles of Law: in National, European and International Law. Paris

17-18.04 Workshop, Concepts and Methods: Text as Data. Oslo

17-18.05 Conference, Geography and Legal Culture on the International Bench. The Hague

30.05-02.06 Brandeis Institute for International Judges. Oslo.

06.06 Seminar, Investment Treaty Law and the Autonomy of EU Law: after Masdar v Spain and Achmea. Paris

18-19.06 Workshop, The Political and Legal Theory of International Courts and Tribunals. Oslo

20-21.06 Workshop, Reflection Group: the comparative advantage of international courts and tribunals. Oslo.

21-22.06 Conference, PluriCourts Annual Conference 2018. Oslo.

30-31.08 Conference, Ensuring and Balancing the Rights of Defendants and Victims at International and Hybrid Criminal Courts. Oslo.

04-05.10 Conference, Religion and Ethnicity on the International Bench. The Hague.

05.11 Ryssdal Seminar. Domstolenes utfordringer: Uavhengighet og effektivisering. Oslo.

09-10.11 Expert Round Table "The Role of International Courts in Protecting Environmental Commons". Honolulu.

06.12 Workshop. How to apply for ERC funding?. Oslo.

Book launches, lectures and presentation

08.02 Lecture, Public Accountability? Reflections on the duality of Expertise vs Accountability, Oslo

31.05 Lecture, International Courts in the face of Increasing National Criticism

05.06 Online book launch, The Rise of Investor-State Arbitration

29.08 The Trial of the Kaiser and the Origins of International Criminal Law. Lecture by William A. Shabas

23.10 European Convention on Human Rights, Russian Legal Identity and the "Right to Object" to Enforcement of the ECtHR Judgments. Guest Lecture by Vladislav Starzhenetsky, Oslo.

10.12 High Courts and Autocratic Regimes. Book presentation by Raul Sanchez Urribarri, Oslo

Publications and presentations

Books

Føllesdal, Andreas; Ulfstein, Geir (eds.). *The Judicialization of International Law. A Mixed Blessing?* Oxford University Press.

Grossman, Nienke; Grant Cohen, Harlan; Føllesdal, Andreas; Ulfstein, Geir (eds.). *Legitimacy and International Courts.* Cambridge University Press.

Howse, Robert; Ruiz-Fabri, Hélène; Ulfstein, Geir; Q. Zang, Michelle. *The Legitimacy of International Trade Courts and Tribunals.* Cambridge University Press.

Nicholson, Joanna (ed.). *Strengthening the Validity of International Criminal Tribunals.* Brill

Ryssevik, Jostein; Føllesdal, Andreas; Thorsen, Dag Einar; Aubert, Axel. *Politikk og menneskerettigheter.* Aschehoug & Co.

Squatrito, Theresa; Young, Oran R.; Føllesdal, Andreas; Ulfstein, Geir (eds.). *The Performance of International Courts and Tribunals*. Cambridge University Press.

St. John, Taylor. *The Rise of Investor-State Arbitration: Politics, Law, and Unintended Consequences.* Oxford University Press.

Ulfstein, Geir; Ruud, Morten. *Innføring i folkerett,* 5. utgave. Universitetsforlaget.

Voigt, Christina; Makuch Zen (eds.). *Courts and the Environment.* Edward Elgar Publishing.

Wind, Marlene (ed.). *International Courts and Domestic Politics.* Cambridge University Press.

Book chapters

Baetens, Freya; Kluwen, Tim. "International Court of Justice" in *The Encyclopedia of Diplomacy.* Wiley-Blackwell.

Baetens, Freya. "Diplomatic Protection" in *Max Planck Encyclopedia of Comparative Constitutional Law.* Oxford University Press.

Baetens, Freya. "European Community and Union: Association of Overseas Countries and Territories" in *Max Planck Encyclopedia of Public International Law*. Oxford University Press.

Baetens, Freya. "Decolonization of Belgian Territories" in *Max Planck Encyclopedia of Public International Law.* Oxford University Press.

Berge, Tarald Laudal; Hveem, Helge. "The International Regime for Investment: A History of Failed Multilateralism" in *Handbook of the International Political Economy of the Corporation.* Edward Elgar Publishing.

Choi, Won-Mog ; Baetens, Freya. "Regional Co-operation and Organization: Asian States" in *Max Planck Encyclopedia of Public International Law.*

Føllesdal, Andreas. "Appreciating the Margin of Appreciation" in *Human Rights: Moral or Political?*. Oxford University Press.

Føllesdal, Andreas."Constitutionalization, Not Democratization" in *Legitimacy and International Courts.* Cambridge University Press.

Føllesdal, Andreas. "The Legitimate Authority of International Courts and Its Limits: A Challenge to Raz's Service Conception?" in *Legal Authority Beyond the State*. Cambridge University Press.

Føllesdal, Andreas. "Power or Authority; Actions or Beliefs" in *International Court Authority*. Oxford University Press.

Føllesdal, Andreas. "When Common Interests are not Common: Why the Global Basic Structure Should be Democratic" in *Global Governance.* Edward Elgar Publishing.

Føllesdal, Andreas; Ulfstein, Geir. "International Courts and Tribunals: Rise and Reactions" in *The Judicialization of International Law. A Mixed Blessing?*. Oxford University Press.

Grant Cohen, Harlan; Føllesdal, Andreas; Grossman, Nienke; Ulfstein, Geir. "Legitimacy and International Courts – A Framework" in *Legitimacy and International Courts.* Cambridge University Press.

Kahn, Jeffrey. "The Richelieu Effect: The Khodorkovsky Case and Political Interference with Justice" in *A Sociology of Justice in Russia.* Cambridge University Press.

Kahn, Jeffrey. "Hybrid Conflict and Prisoners of War: The Case of Ukraine" in *Complex Battlespaces: The Law of Armed Conflict and the Dynamics of Modern Warfare.* Oxford University Press.

Langford, Malcolm; Behn, Daniel; Fauchald; Ole Kristian. "Backlash and State Strategies in International Investment Law" in *The Changing Practices of International Law.* Cambridge University Press.

Naurin, Daniel; Reh, Christine. "Deliberative Negotiation" in *The Oxford Handbook of Deliberative Democracy.* Oxford University Press.

Naurin, Daniel; Larsson, Olof. "House of Cards in Luxembourg: A Brief Defence of the Strategic Model of Judical Politics in *The Context of the European Union". The Court of Justice of the European Union-Multidisciplinary Perspectives.* Hart Publishing.

Nicholson, Joanna. "Introduction" in *Strengthening the Validity of International Criminal Tribunals.* Brill Academic Publishers.

Nicholson, Joanna. "Strengthening the effectiveness of international criminal law through the principle of legality" in *Strengthening the Validity of International Criminal Tribunals.* Brill Academic Publishers.

Pérez León Acevedo, Juan Pablo. "The Experience of the Åbo Akademi University International Human Rights Law Clinic, Finland" in *Reinventing Legal Education - How*

Clinical Education is reforming law teaching and practice in Europe. Cambridge University Press.

Squatrito, Theresa; Young, Oran R.; Føllesdal, Andreas; Ulfstein, Geir. "A Framework for Evaluating the Performance of International Courts and Tribunals" in *The Performance of International Courts and Tribunals.* Cambridge University Press.

St. John, Taylor. "Enriching law with political history: A case study on the creation of the ICSID Convention" in *International Investment Law and History.* Edward Elgar Publishing.

Strømmen, Ester E.J.. "Kjønn og Fremmedkrigere: 'Jihadbruder' og kvinnelig agens i IS" in *Fremmedkrigere : forebygging, straffeforfølgning og rehabilitering i Skandinavia.* Gyldendal Akademisk.

Ulfstein, Geir. "Evolutive Interpretation in the Light of Other International Instruments: Law and Legitimacy" in *The European Convention on Human Rights and General International Law.* Oxford University Press.

Ulfstein, Geir. "International Courts and Tribunals and the Rule of Law in Asia" in *Global Constitutionalism from European and East Asian Perspectives.* Cambridge University Press.

Ulfstein, Geir. "The Human Rights Treaty Bodies and Legitimacy Challenges" in *Legitimacy and International Courts.* Cambridge University Press.

Ulfstein, Geir. "International Courts and Judges: Independence, Interaction, and Legitimacy" in *Global Governance.* Edward Elgar Publishing. Reprint.

Young, Oran R.; Squatrito, Theresa; Føllesdal, Andreass; Ulfstein, Geir. "What We Know So Far" in *The Performance of International Courts and Tribunals.* Cambridge University Press.

Journal articles

Baetens, Freya. "No Deal is Better Than a Bad Deal? The Fallacy of the WTO Fall-Back Option as a post-Brexit Safety Net" *Common Market Law Review.*

Behn, Daniel; Berge, Tarald Laudal; Langford, Malcolm. "Poor states or poor governance? Explaining outcomes in investment treaty arbitration". *Northwestern Journal of International Law and Business.*

Berge, Tarald Laudal. "Book Review. Jonathan Bonnitcha, Lauge N. Skovgaard Poulsen and Michael Waibel, The Political Economy of the Investment Treaty Regime" *Review of International Organizations.*

Berge, Tarald Laudal; Kuyper, Jonathan William. "Book Review - The Rise of Investor-State Arbitration: Politics, Law, and Unintended Consequences". *Global Policy.*

Churchill, Robin; Sundet, Jan Henry; Ulfstein, Geir. "Snøkrabben som «sedentær art» etter FNs havrettstraktat – et tilsvar». *Lov og Rett.*

Fauchald, Ole Kristian. Klimarettssaken og "amerikanisering" av norske domstoler. *Lov og Rett.*

Føllesdal, Andreas. "Introduction: The European Research Council @ 10—What has it done to us?". *European Political Science.*

Føllesdal, Andreas. "More than meets the eye – and less: Comments on The Internationalists". *Global Constitutionalism.*

Føllesdal, Andreas. "The European Research Council @ 10: Whither hopes and fears?" . *European Political Science.*

Gallant, Kenneth. "The Enforceability Deficit Concerning Victims' Remedies". *International Criminal Law Review.*

Gáspár-Szilágyi, Szilárd. "It is Not Just About Investor-State Arbitration. A Look at Case C 284/16, Achmea BV"". *European Papers.*

Gáspár-Szilágyi, Szilárd. "Quo Vadis EU investment law and policy? the shaky path towards the international promotion of EU rules". *European Foreign Affairs Review.*

Gáspár-Szilágyi, Szilárd; Usynin, Maxim. "The Rising Trend of Including Investment Chapters into PTAs". *Netherlands Yearbook of International Law.*

Hermansen, Silje Synnøve Lyder. "(Self-) selection and expertise among decision-makers in the European Parliament". *Journal of Legislative Studies.*

Holmgren, Mikael. "Partisan Politics and Institutional Choice in Public Bureaucracies: Evidence from Sweden". *Journal of Public Administration Research and Theory.*

Kahn, Jeffrey David. "Book review: Jordan Gans-Morse, Property Rights in Post-Soviet Russia: Violence, Corruption, and the Demand for Law (CUP, 2017)". *The Russian Review.*

Kirkebø, Tori Loven, Langford, Malcolm. «The commitment curve: Global regulation of business and human rights". *Business and Human Rights Journal.*

Langford, Malcolm; Behn, Daniel "Managing Backlash: The Evolving Investment Treaty Arbitrator?". *European Journal of International Law.*

Lingaas, Carola. "Book review: Constructing Genocide and Mass Violence: Society, Crisis, Identity". *Genocide Studies and Prevention.*

Lingaas, Carola. "Book review: Gregory Gordon, Atrocity Speech Law: Foundation, Fragmentation, Fruition" *Human Rights Law Review.*

Naurin, Daniel. "Liberal Intergovernmentalism in the Councils of the EU: A Baseline Theory?". *Journal of Common Market Studies.*

Nicholson, Joanna. "The role played by external case law in promoting the legitimacy of international criminal court decisions". *Nordic Journal of International Law.*

Pérez León Acevedo, Juan Pablo. "The Katanga reparation order at the International Criminal Court: Developing the emerging reparation practice of the Court". *Nordic Journal of Human Rights.*

Pérez León Acevedo, Juan Pablo. "International Human Rights Law in the Reparation Practice of the Extraordinary Chambers in the Courts of Cambodia". *The Global Community Yearbook of International Law and Jurisprudence.*

Pérez León Acevedo, Juan Pablo. "The Challenging Prosecution of Unlawful Attacks as War Crimes at International Criminal Tribunals". *Michigan State International Law Review.*

Pérez León Acevedo, Juan Pablo. "Victims' Status at International and Hybrid Criminal Courts: Victims as Witnesses, Victim Participants/Civil Parties and Reparations Claimants". *Finnish Yearbook of International Law.*

Pérez León Acevedo, Juan Pablo. "Why to Retain Membership of the International Criminal Court? Victim-oriented Considerations". *International Organizations Law Review.*

Scherz, Antoinette. "Representation in multilateral democracy: How to represent individuals in the EU while guaranteeing the mutual recognition of peoples". *European Law Journal.*

St. John, Taylor: "Book review: The history of ICSID". *Journal of World Investment and Trade.*

Ulfstein, Geir. "The role of outcasting in the world order". *Global Constitutionalism.*

Ulfstein, Geir; Zimmermann, Andreas. «Certiorari through the Back Door? The Judgment by the European Court of Human Rights in Burmych and Others v. Ukraine in Perspective". *The Law and Practice of International Courts and Tribunals.*

Selectected blog posts

Baetens, Freya. The Feasibility of Falling Back: the UK, the EU and the WTO – After Brexit. *Kluwer Regulating for Globalization Blog.*

Baetens, Freya. Increasing importance of the transitory mechanism regulating EU Member States' BITs with third countries: good intentions but problematic implementation?. *Kluwer Regulating for Globalization Blog.*

Campbell, Marcelo. Non-Communicable Diseases: Legal and Policy Implications of Public Health Measures Restricting Intellectual Property Rights. *Kluwer Regulating for Globalization Blog.*

Chavez, Leiry C. The Inter-American Court of Human Rights has spoken about gender identity and non-discrimination against same-sex couples. Would States listen?. *PluriCourts Blog*

Føllesdal, Andreas; Swigart, Leigh; Ulfstein, Geir. Oslo Recommendations for Enhancing the Legitimacy of International Courts: international judges take a stand on current challenges facing the international justice system. *IntLawGrrls Blog.*

Føllesdal, Andreas; Ulfstein, Geir. The Draft Copenhagen Declaration: Whose Responsibility and Dialogue? *EJIL Talk - Blog of the European Journal of International Law.*

Gáspár-Szilágyi, Szilárd. Brexit. Maybe not such bad news for intra-EU investment awards after Achmea?. *International Economic Law and Policy Blog.*

Gáspár-Szilágyi, Szilárd. The CJEU Strikes Again in Achmea. Is this the end of investor-State arbitration under intra-EU BITs?'. *International Economic Law and Policy Blog.*

Kahn, Jeffrey David. Oral Argument in Georgia v. Russia (II): The Fake News Era Reaches Strasbourg. *Lawfare.*

Langford, Malcolm; Behn, Daniel. Can Investment Arbitration Fix Itself? *EJIL Talk - Blog of the European Journal of International Law.*

Lingaas, Carola. The Concept of Race in International Criminal Law. *Voelkerrechtsblog.*

McAllister, Jacqueline. Final Judgments in The Hague: Reflections on the Yugoslav Tribunal's Legacy. *IntLawGrrls Blog.*

Nicholson, Joanna. Fighting and Victimhood in International Criminal Law. *IntLawGrrls Blog.*

Skeie, Victoria. Researchers meet the European Court of Human Rights. *PluriCourts Blog.*

St. John, Taylor. Investment law leads to more investment: A faulty premise? *Oxford University Press Blog.*

St. John and Yuliya Chernykh. Déjà vu? Investment Court Proposals from 1960 and Today. *EJIL Talk - Blog of the European Journal of International Law.*

Ulfstein, Geir; Føllesdal, Andreas. Copenhagen – much ado about little? *EJIL Talk - Blog of the European Journal of International Law.*

Selected media contributions

Berge, Tarald Laudal; Alschner, Wolfgang. Reforming Investment Treaties: Does treaty design matter?. Investment Treaty News Quarterly. kanskje artikkel

Berge, Tarald Laudal; Langford, Malcolm. Hvor var Norge? Dagens næringsliv 2018.

Føllesdal, Andreas. - Dette er en lokal demonstrasjon som utfordrer hele samfunnet. www.fosna-folket.no.

Føllesdal, Andreas; Ulfstein, Geir. ... og for øvrig bør EMD nedlegges?. Klassekampen.

Føllesdal, Andreas; Ulfstein, Geir. Københavnerklæringen – opp som en løve. Morgenbladet.

Føllesdal, Andreas; Ulfstein, Geir. Om vi skrev menneskerettighetene i dag. NRK P2 - Studio 2 [Radio] 2018-03-12

Langford, Malcolm; Ulfstein, Geir. Et ulovlig missilangrep. Aftenposten.

Letourneau-Tremblay, Laura. Lawful casualty or victim of a war crime?. ScienceNordic.com.

Nicholson, Joanna. Alternative fakta. Klassekampen.

St. John, Taylor. The History of ISDS. The Arbitration Station.

Strømmen, Ester E.J.. Gift med fremmedkrigere. NRK Søndagsrevyen [TV] 2018-01-21

Tørstad, Vegard. Nå skal regelboka skrives. Klassekampen.

Ulfstein, Geir. Krabbekonflikten. Krig og fred - en podkast fra NRK Urix [Radio] 2018-04-12

Ulfstein, Geir. Syria. Politisk Kvarter - NRK Radio [Radio] 2018-04-17

Selected lectures and presentations

Føllesdal, Andreas. Are concepts of legitimacy for international courts related, and how? Seminar, Political Theory Group; 2018-01-26.

Føllesdal, Andreas. Better signposts or better walking sticks? How to improve the "Emerging European Consensus" doctrine of the European Court of Human Rights – and Why?. PluriCourts Human Rights seminar;

2018-02-27.

Føllesdal, Andreas. Comments on Peffer" Panel on Justice as fairness versus Justice as fair rights. World Congress of Philosophy; 2018-08-14.

Føllesdal, Andreas. Current contributions of the natural law tradition to international law. PluriCourts Wednesday Seminar; 2018-09-12 - 2018-09-12 UiO

Føllesdal, Andreas. ERC-application workshops – experiences. The Guild of Research Universities; 2018-10-18.

Føllesdal, Andreas. Forholdet mellom EMD og nasjonale domstoler. Kurs for dommere; 2018-10-16.

Føllesdal, Andreas. Human rights in 'other' international courts – some issues of legitimacy. Workshop on human rights in non-human rights courts; 2018-04-26 - 2018-04-26 UiO

Føllesdal, Andreas. Improving the European Consensus Doctrine: A Better Signpost, Not a Better Walking Stick. European Court of Human Rights meeting; 2018-02- 15.

Føllesdal, Andreas. "Insights of Populism" Panel on populist nationalism, current international institutions, world government, or global federalism?. World Congress of Philosophy; 2018-08-19.

Føllesdal, Andreas. International human rights in Norway: Impact, Pushback and Dialogue. National PhD seminar in Law (DNDS): Application of other methods than legal dogmatic analyses in legal scholarship; 2018-09-25.

Føllesdal, Andreas. Majoritarian Populism Versus Minority Rights Protection – How Might International Courts Respond? Panel on Political Philosophy. World Congress of Philosophy; 2018-08-14.

Føllesdal, Andreas. Natural law theories and international law. European Consortium for Political Research General Conference; 2018-08-23.

Føllesdal, Andreas. On authorship of joint publications – disciplines, hierarchy and gender. On authorship of joint publications – disciplines, hierarchy and gender; 2018-12-13.

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