

Teaching International Law Interest Group

Message from the TILIG Editorial Team

It is our pleasure to publish this issue of our Teaching International Law Interest Group's newsletter (TILIG).

By its very own nature, international law speaks to multicultural backgrounds. This is what contributes to its uniqueness. The pedagogy of international law cannot escape this important fact. TILIG builds on this great opportunity of interaction between multiculturalism and the pedagogy of international law, and we take the chance to share such endeavours in this issue of our newsletter.

On 1st December 2023 TILIG' co-chair Md. Rizwanul Islam of North South University conducted the webinar 'Teaching Transitional Criminal Law'. In this webinar, Dr Gillian MacNeil, Assistant Professor at Robson Hall (Faculty of Law, University of Manitoba) addressed the challenges of teaching transnational criminal law. Transnational criminal law is an expanding area of international law that has significant impacts on municipal criminal laws. It is also a field with which students often have little or no familiarity. Discussions included challenges to course preparations, challenges facing instructors, and teaching as it exists at the intersection of the domestic and international systems. The significance of this topic comes from the understanding that students are increasingly likely to encounter the impacts of transnational criminal law when they enter legal practice.

In this issue, we are happy to present the student's perspective on the teaching and learning of international law. Sayere Nazabi Sayem, a recent graduate, shares her learning experience of public international law focusing on the use of technology and current approaches to the pedagogy of public international law, and their interaction with student's cognition.

Research proved that the wider economic and social domestic context of learning is of great relevance to the pedagogy of international law. In this issue, co-editor Khadeija E. Mahgoub shares her reflections on the teaching of private international law in Sudan. She discusses the relevance of foreign elements in the country's economic and social domains to the pedagogy of private international law.

Finally, we call on all our community members to be a part of our active intellectual endeavours. Please keep sending in your writings on the teaching of international law, professional development news or announcements of published works and any upcoming events related to the teaching of international law... etc.

We welcome and appreciate all your suggestions.

Happy reading!

TILIG Co-editors,
Dr. Khadeija E. Mahgoub
Celine Yan Wang

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Writings on the Teaching of International Law

I. Student discussions: A key to cognition

Public International law binds states, international institutions and sometimes individuals, with recognized principles and values. Since its elements are constantly evolving, the law and its pedagogy must adhere to demands of the current times, as well. This short essay would cater to the discussion of the latter only and express the opinions of the author on the possible improvements in teaching and learning international law.

The syllabus of international law generally consists of state practice and judicial decisions.¹ The pedagogy would require paying attention to both in a healthy manner. The traditional textbook method of teaching international law would follow chapter-wise concepts one after the other.² Another option is learning the basics using cases (casebook method) – fully resolved, ongoing or failed to resolve.³ The drawbacks these may create is the lack of interest among students where the former is unoriginal and may be dull and the latter's success rate is heavily dependent on the climax of the cases. I, myself, was fortunate enough to experience neither a full doctrinal approach, nor a full case-oriented approach in class but rather a mix of them in a storytelling manner during my undergraduate days. As effective as that is, I believe international law classes should promote more student engagement and activities.

Another crucial focus is towards the teachers than the syllabus itself⁴ and how they play a key role in developing interests in the students' minds. They, after all, are the driving force towards a subject that is first-hand nouveau to the students. An educational model created by

Tecnológico de Monterrey saw its fair share of success that aimed to limit the generational gap between students and teachers (mostly due to technology nowadays) and proposed that 'the students participate in challenging learning activities that include the development of creativity, motivate them to learn, stimulate their intellectual capacities, the use of their multiple intelligences, and they are linked to the real world of their profession.'⁵ The model aimed to create an environment (using visual media, for example) where the learning process would be shared by both the students and the teachers to keep themselves updated to the variety of lessons and share their out of the classroom passion towards the subject with the students.

As a recent graduate with some moot court experience, I found instances of deeper understanding when I associated my class lectures with hypothetical cases. In a classroom setting, when the cases are read over by everyone, it forms diversified perceptions of many students (or several doctrines in a manner, if I must say). For example, using criminal law cases where one group of students take in the role of prosecution and the other of defense; similarly, a group of students can take up roles of Libya, the United Kingdom, the United States of America and Scotland, respectively to engage in debates on the *Lockerbie* case⁶ – later to understand the concepts of extradition behind it. The process could be summarized into: a general understanding of case discussion (by students) to case discussion (by the teacher) to eventually learning the doctrine and read further cases. Consequently, the attention-grabbing task is ensured once everyone collectively expresses their thoughts. However, there is always a risk of students

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1 Christine Schwöbel-Patel, *Teaching International Law*, Oxford Bibliographies (2018) <https://www.oxfordbibliographies.com/display/document/obo-9780199796953/obo-9780199796953-0166.xml#obo-9780199796953-0166-bibliitem-0009>

2 See for e.g. widely used texts like MALCOLM N. SHAW, *INTERNATIONAL LAW* (2003); see also JAMES CRAWFORD, *BROWNLIE'S PRINCIPLES OF PUBLIC INTERNATIONAL LAW* (2012).

3 See for e.g. *LANDMARK CASES IN PUBLIC INTERNATIONAL LAW* (Eirik Bjorge, Cameron Miles & Paul Mitchell eds., 2020).

4 MANFRED LACHS, *THE TEACHER IN INTERNATIONAL LAW: TEACHINGS AND TEACHING* (1984).

5 Carmelo Cattafi, *Teaching Methods In International Law*, 14 J. INT'L EDUC. RES. 4 (2018).

6 Case Concerning Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at *Lockerbie* (Libya v. U.K.) 1992 I.C.J. Rep. 3 (Mar. 3)

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not doing their necessary reading or taking up the course for the credits only, but it is indubitably worth a try. Once a student is engaged in the course content, it would be hard to displease them. The main aim would be to collectively create a harmonious teaching.

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2. Writings on the Teaching of International Law

Exploring the Teaching of Private International Law in Sudanese Universities: *Interaction between the Pedagogy and the Wider Context*

Introduction

The teaching of private international law (PIL) in tertiary education focuses on core procedural matters, which comprise jurisdiction in transboundary cases, the choice of which nation's law applies when a foreign party is involved, and the recognition and enforcement of foreign judgments.⁷

For PIL-related legal disputes to arise, it is necessary for a foreign element to interact with the three core components. Any curriculum design and content will be affected by the wider context in which such a teaching and learning process operates.

In the following paragraphs, I will endeavour to give insights into the interaction between the wider context of PIL elements in Sudan and the pedagogical aspects of the teaching of PIL in the University of Khartoum.

A brief history of PIL in Sudan

The evolution of PIL in Sudan requires the existence of foreign private law interactions – for example, foreign private law-related businesses, or foreign personal law-related interactions such as marriages and divorces. Such kinds of interactions provide for the dynamic operation of PIL in Sudan's domestic judicial institutions.

Contrary to several arguments in the academic arena in Sudan, the existence of PIL rules in the country did not start with the Anglo-Egyptian condominium rule from 1899 to 1955.

Arguably, the existence of foreign parties and consulates in Sudan during the 19th century indicates that various private law-related interactions were taking place. While this foreign involvement was mostly related to colonial exploitative issues, what is important, in the context of PIL, is that there was such a foreign presence in the country, despite its connection to colonialism. (Worth noting, however, that Sudan's prestigious geographic position led to the existence of foreign elements for other purposes as well. For example, Sudan is *en route* to the pilgrimage (*Hajj*) in Mecca for many centre and western Africa countries. Many pilgrims remained in Sudan).

During the twentieth century period in which Sudan was colonised, the presence of foreigners was reflected in the large number of cases that were brought before Sudanese courts. Over time, many foreign businesses integrated into Sudanese domestic affairs. Foreigners and foreign companies remained in Sudan long after independence and became part of the social and economic structures of the country.

Following the nationalization movement of the former Sudanese dictator Gaafar Nimeiry, many foreign businesses left the country, which became even more closed with the strategic decisions against foreigners made by the most recent Sudanese dictator, Omar al-Bashir.

All of this interfered with the dynamics and provision of PIL-related material to the courts. This is in relation to precedents. However, in relation to legislation, major changes occurred with the adoption of the 1983 Civil Procedure Act and the 1984 Civil Transaction Act.

During the dictatorship of Omar al-Bashir, many Sudanese people fled the country. Many of them now have dual nationalities and foreign domiciles. Despite its negative origins, this started bringing in several PIL-related cases to the Sudanese courts. In addition, Sudan joined several international conventions of relevance to PIL, promising to bring in further relevant cases.

⁷ Mathias Reimann, "Comparative Law and Neighbouring Disciplines" in M. Bussani and U. Mattei (eds) *The Cambridge Companion to Comparative Law* (Cambridge University Press, Cambridge, 2012), 15–16.



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Interaction between the teaching of PIL and the wider context of operation

The Department of International and Comparative Law in the Faculty of Law delivers two modules: Private International Law I and II.

As stated earlier, the reduction in the number of judicial decisions and precedents has taken its toll on the provision of teaching materials. Until now, the teaching has been heavily based on domestic Sudanese precedents from the mid 20th century, such as *Carvanopoulos v. Carvanopoulos* on the domicile of choice, and *John G. Fairweather v. Gabriel L. Gabrielides* on the recognition and enforcement of foreign judgments.

With the slow changes that are currently taking place in Sudan's social and economic structures, it is possible that there will be availability of more teaching material to be provided in due course.

Some takeaways

1. Further research on the nature of foreign existence in Sudan before the 20th century, regarding the law, is urgently needed.
2. The recent changes in Sudan's social and economic structures are of great relevance to the pedagogy of PIL. Further legal research on this period is also required.

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Recent and Forthcoming Publications

1. J. Odermatt, *Decolonising the International Law Curriculum: A Critical Literature Review* (CLS Working Paper Series 2023/05). <https://openaccess.city.ac.uk/id/eprint/31492/>
2. Dr. Shea Esterling has published: *Indigenous Cultural Property and International Law: Restitution, Rights and Wrongs* (Routledge, 2023). The book examines the restitution of cultural property to Indigenous Peoples in human rights law, in particular under Article 11 of the UN Declaration on the Rights of Indigenous Peoples, offering a detailed analysis of the opportunities and constraints of international law as a tool of resistance and social transformation for marginalized groups. With its interdisciplinary approach to the field, this book will appeal to scholars and students in the fields of law, politics, anthropology and indigenous studies in canvassing themes related to colonialism, essentialism, indigeneity and non-state actors among others.

3. Dr. Md. Rizwanul Islam has published:

1. Book Chapters:

- Md. Rizwanul Islam, 'Judicial Lawmaking in Bangladesh: Looking Back and Into the Future' in M. Rafiqul Islam and Muhammad Ekramul Haque (eds), *The Constitutional Law of Bangladesh: Progression and Transformation at Its 50th Anniversary* (Springer Nature Singapore, 2023) 387-400, https://doi.org/10.1007/978-981-99-2579-7_22 (invited contribution)
- Md. Rizwanul Islam, 'The Humane yet Ambivalent Attitude Towards Persecuted People: A Potential Threat to Stability?' in Ayyoob Sharfi, Dahlia Simangan, and Shinji Kaneko (eds) *Integrated Approaches to Peace and Sustainability* (Springer Nature Singapore, 2023) 103-113, https://doi.org/10.1007/978-981-19-7295-9_7

2. Journal Articles:

- Md. Rizwanul Islam, 'A Tale of Too Little: Anti-Dumping Tariff between SAFTA Contracting Parties' (2023) 57(5) *Journal of World Trade* 833-850 <<https://kluwerlawonline.com/journalarticle/Journal+of+World+Trade/57.11/TRAD2023034>>
- Md. Rizwanul Islam, 'The Murky State Practice on Recognition of Governments and the National Unity Government in Myanmar' (2022) 44(3) *Houston Journal of International Law* 447-474