



**MAX PLANCK INSTITUTE**  
FOR COMPARATIVE PUBLIC LAW  
AND INTERNATIONAL LAW

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*Quod licet Jovi non licet Bovi:*

Double Standards – Feature or Affliction of the International Legal Order?

**MPIL Agora**

**25 September, 2019, 16:00-17:00, Room 014**

Each State possesses a unique set of rights and obligations. In a horizontal order where law is generated by consent, some States may act as others may not. The norms of international law do not necessarily require that every State be held to the same standard. Where homogenous obligations are shared, some breaches are tolerated while others are not. These distinctions mean that international actors sometimes exempt themselves or others from the creation and application of rules.

Although evidently inherent to the nature of the order, this reality has led to subjects and scholars alike raising grievances pertaining to manifestations of "double standards" in international law. Despite the multitude of references to individual "double standards" in practice and literature, no effort has yet been undertaken to investigate the phenomenon as a single problem. This has left a wealth of resources on individual instances untapped in terms of their broader significance.

Seeking to fill this gap, Michael J. Moffatt has conducted a series of case studies in the context of researching his PhD thesis devoted to "Understanding Double Standards in International Law". Focusing on instances where practice and scholarship converge in their assessment of a problem as a "double standard", the project identifies fact patterns, normative conditions, theoretical insights, stakes and solutions. These categories are employed to develop a more comprehensive understanding through cross-fertilization and typification.

To test the proposition that double standards may be immanent, but nonetheless detrimental to the order, the presentation will discuss three instructive case studies rooted in distinct domains of international law. Primarily highlighting patterns and stakes, remarks will focus on the withdrawal of States from treaties and international institutions. Beginning with a definition of double standards, the presentation will elicit to what extent withdrawing states have invoked double standards as well as the validity and causality of pertinent charges.

Specifically, the presentation will be devoted to analyzing the withdrawals of (i) Burundi from the Rome Statute (ii) the DPRK from the Treaty on the Non-Proliferation of Nuclear Weapons and (iii) the United States from the United Nations Human Rights Council.



Michael J. Moffatt is a Lecturer, Researcher and PhD Candidate at the University of Vienna, Section for International Law and International Relations and a Fellow at the Vienna Doctoral Academy (Communicating the Law). Having pursued his studies between Vienna and Sciences Po Paris, he is also a graduate of the Academy for Arbitration Law (Paris), OECD International School of Nuclear Law (Montpellier) and International Law Seminar at the International Law Commission (Geneva). Prior to his arrival in Heidelberg, he was a visiting scholar at the Lauterpacht Centre for

International Law (Cambridge).

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