



Masterclass 2022

The Fate of International Courts

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16 – 19 May 2022, Max Planck Institute for Comparative Public Law and International Law

The upcoming Masterclass with Professor Hélène Ruiz Fabri will take place on 16 – 19 May 2022 at the Max Planck Institute for Comparative Public Law and International Law in Heidelberg, Germany.

The four sessions will focus on specific dimensions of international courts. The first one will examine the debates regarding the blurry lines of what constitutes an international court. Depending on which definition is used, questions can be raised as to which adjudicative bodies could qualify as such. Independence, impartiality, proper judicial procedure, and determining disputes in accordance with law are all relevant considerations. Examples warranting conceptual adjustments have included, for instance, the Dispute Settlement Mechanism of the WTO.

Moreover, to fully understand a court, one needs to pay as much attention to the set of people who staff them. The conceptual discussion of the first session gives way to more critical views. Asking who the adjudicators are, this inevitably leads us to questions of power, privilege and marginalization. Amongst the major concerns, gender diversity stands out as part and parcel of the overarching critical views. This will be the theme of the second session.

The interaction between and amongst courts opens the door to the potentials of dialogue and cross-fertilization as interpretive tools. Here the lack of binding precedent is not necessarily an obstacle. To the contrary, distinct international courts can and do cite each other's jurisprudence, even if not in a fully consistent manner. The underlying explanations may include the need to provide coherence and consistency, and to take stock of comparable challenges so as to draw from a wide variety of judicial wisdom. It is thus possible to recognize burgeoning communities of practice amongst adjudicative bodies. The third session will deal with how such practice takes place, for instance, in the European Court of Human Rights.

Last but certainly not least, the professional environment in which international adjudicators exercise their functions may often lead to conflicts of interest and overall ethical concerns. Given the enclosed setting in which members of international courts, tribunals and ad hoc judicial bodies operate, they might change from one position to another. Similarly, personal features such as nationality might put them in a difficult place by having to rule on issues regarding their own states.

The manifold ways in which adjudicators ought to be more aware of the context in which their functions are embedded will be addressed in the final session.



Professor Hélène Ruiz Fabri is the Director of the Max Planck Institute Luxembourg for Procedural Law where she leads the department of International Law and Dispute Resolution. She has degrees in law and political science and a Doctorate from the University of Bordeaux. She is also professor at the Sorbonne Law School (Université Paris 1 Panthéon-Sorbonne), where she was the Dean for four years. She has ample experience in legal consulting and is a listed expert and arbitrator in multiple international economic fora, such as the International Centre for Settlement of Investment Disputes (ICSID) and the United Nations Commission on International Trade Law (UNCITRAL).

At 20:00 on Tuesday, 17 May 2022, Professor Ruiz Fabri will give a public lecture on "Feminism and International Law" at DAI Heidelberg.