



MAX PLANCK INSTITUTE

FOR COMPARATIVE PUBLIC LAW
AND INTERNATIONAL LAW

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War, Constitutionalism and International Law: A (Selective) Comparative Study

MPIL Agora

Thursday, 16 November 2017, 15:00 – 16:00, Room 014

In this Agora, Professor Damrosch will present an installment of her research at the intersection of the international law and comparative constitutional law governing use of military force. Taking the multi-national coalition against Daesh (the self-proclaimed Islamic State in Iraq and Syria) as a current illustration, and drawing on comparative methods, she will discuss the national constitutional processes by which democratic states decide to participate (or not) in international military operations.

The larger narrative – to be traced from the beginning of the 1990s with the first Iraq war, to the responses to the terrorist attacks of September 11, 2001, through the 2003 Iraq war and now the operations against Daesh in Iraq and Syria since 2014 – investigates broad trends among democratic states toward: (1) greater parliamentary involvement in decisions to commit armed forces to international engagement; (2) clearer embodiment in national constitutional systems of requirements for parliamentary consultation and approval in a timely manner; (3) more attention to international law in national decisions to use military force; and (4) more instances of parliaments and courts serving as checks on executive war-making. Her overall research on these themes tracks some 20 well-established democracies, only a few of which can be addressed here. Comparative insights can help evaluate why these trends are so clearly emerging and some of their problematic dimensions.



Lori Fidler Damrosch is the Hamilton Fish Professor of International Law and Diplomacy at Columbia Law School. Her principal areas of interest are public international law and the comparative constitutional law of foreign relations. Before joining the Law School in 1984, she served in the Office of the Legal Adviser of the U.S. Department of State (1977-81) and practiced with a New York law firm (1981-84). Publications include *International Law: Cases and Materials* (6th ed. 2014); *Beyond Confrontation: International Law in the Post-Cold War Era* (1995); *Enforcing Restraint: Collective Intervention in Internal Conflicts* (1993); *Law and Force in the New International Order* (1991); and *The International Court of Justice at a Crossroads* (1987). Leadership positions in the American Society of International Law (ASIL) have included editor-in-chief of the *American Journal of International Law* (2003-13) and ASIL vice president (1996-98), president-elect (2013-14), president (2014-16), and honorary vice president (2016-).

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