



Faculty of Law

Amsterdam Center for International Law

Call for Papers

Contingency in the Course of International Law: How International Law Could Have Been

14-16 June 2018

Keynote: Fleur Johns (UNSW)

Closing Address: Samuel Moyn (Yale)

Concept: The workshop will ask a question that is deceptive in its simplicity: How might international law have been otherwise? The overarching aim will be to expose the contingencies of international law's development by inquiring into international law's past. Such inquiries may be of systematic purport – asking, for example, how a different conception of the sources of international law could have emerged. Or they may focus on specific areas of the law, asking questions like whether the idea of state crimes could have taken hold or whether the NIEO could have achieved greater success (Anghie, 2015; Özsu, 2017; Venzke, 2017). International law's past is almost certainly ripe with possibilities that we have forgotten. The workshop will seek to reveal and remember them.

The workshop will focus on trying to tell compelling stories about international law's contingency. To be sure, those attempts may fail and claims to contingency may well turn out to be false (Beckett, 2017; Marks, 2009; Orford, 2015). Either way, though, we will question the present state of international law by challenging its pretence to necessity and by better understanding the forces that have shaped it (Horkheimer, 2002; Menke, 2014; Boucheron, 2016). Put simply with Robert Musil: 'If there is a sense of reality, there must also be a sense for possibility' (1995: 13).

While the operation of the law is bound to gloss over any contingency in its course, we wish to draw out those contingencies to learn what could (not) have been. Some contributions will focus on the operation of international law itself, exploring the differential developments that could have taken place concerning seminal judicial decisions (eg, what if France had won the *Lotus* case?), key treaties (eg, what if states had failed to conclude the Second Additional Protocol in 1977?), or important institutions (eg, what if the International Clearing Union had been established in 1949?). Another set of inquiries will question the development of international law in light of more general historical events that might not have happened or might have happened differently, such as the outbreak of World War I, the processes of decolonization, or the terrorist attacks of 9/11. And yet other angles are welcome.

In the course of concrete inquiries into international law's past, there are numerous opportunities for theoretical reflection about the nature of contingency itself, ranging from philosophies of legal history to questions about the narrator's perspective. How should actor- and structure-centered accounts of the past be combined in probing the contingency of past events (Tomlins, 2016)? How should we cope with possible tensions between pursuing interests in the present while avoiding undue anachronisms (Lesaffer, 2007)? And how can we contextualize legal developments without reducing law to its context only (Koskenniemi, 2013)? Not the least, the question of how it could have been provides a renewed take on perennial questions of international law's relationship with power, culture, and justice.

Logistics: The workshop will be held from 14-16 June 2018 at the University of Amsterdam. It is organized within the Faculty of Law's Research Priority Area '[Law and Justice Across Borders](#)' by the [Amsterdam Center for International Law \(ACIL\)](#). The workshop will bring together approximately 30 participants from Thursday afternoon to Saturday morning and will feature an opening address by Fleur Johns (UNSW) and a closing address by Samuel Moyn (Yale). Participants will be expected to circulate extended outlines of their contributions prior to the workshop; reworked contributions will be due a few months after the workshop for publication with a leading academic press. (OUP has affirmed their strong interest.) The workshop is organized by Ingo Venzke and Kevin Jon Heller.



Abstract Submissions and Timeline:

- Submit abstracts of ca. 500 words and CV by **1 December 2017** by writing to acil-fdr@uva.nl; selection by 15 December 2017.
- Extended outlines of ca. 3.000 words to be circulated by **31 May 2018**.
- Revised contributions (8-10.000 words, including footnotes) to be submitted by **1 October 2018**.
- Limited funding is available to support travel expenses on a needs basis.

References:

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- Horkheimer, M. (2002). Traditional and Critical Theory. In *Critical Theory: Selected Essays* (pp. 188–232). New York: Continuum.
- Koskeniemi, M. (2013). Histories of International Law: Significance and Problems for a Critical View. *Temple International and Comparative Law Journal*, 27(2), 215–240.
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