**International Law in Asia**

Michael Waibel

*Winter 2022*

The course will introduce you to Asian perspectives and instruments of international law. The first three lessons will adopt a historical and theoretical approach to provide you with the foundation for the further sessions, which focus on specific issue areas. In these first three lessons we will discuss such fascinating topics as unequal treaties, the “Asian values” debate, the “historic rights” in the South China Sea, and many more. The course begins with some legal history, and explores how international law was introduced to Asia. The course then discusses which concepts of international law were generally embraced by Asian states, and whichinstruments have been received more sceptically. We will also address the growing influence of Asian countries on the making and development of international law.

The next sessions look more closely at specific areas of international law. At first, we will focus on human rights law in Asia. We will debate the universality of human rights in the light of diverse cultures, and look at Asian approaches to human rights. As the recent publication of the [UN Report on the human rights situation of the Uyghurs in China](https://www.ohchr.org/sites/default/files/documents/countries/2022-08-31/22-08-31-final-assesment.pdf) has put the discriminatory treatment of minorities by Asian states back into focus, we will also speak about minorities and indigenous peoples in Asia. We will discuss whether the international human rights regime can provide a solution to minorities seeking protection, and why it might be difficult to apply the concept of “indigenous peoples” in Asia. We will then move on to discuss a complex territorial dispute in Asia: The South China Sea Dispute. We will compare the legal arguments of both sides, and address the scepticism of Asian states towards international dispute settlement. At the end of the semester, we will discuss Asia’s role in the shaping of contemporary international economic law.

**Main text:** [*The Oxford Handbook of International Law in Asia and the Pacific*](https://opil-ouplaw-com.uaccess.univie.ac.at/view/10.1093/law/9780198793854.001.0001/law-9780198793854)(2019)

1. **The origins of international law in Asia**

Question:How did international law arrive in Asia?

*Required Reading*

Antony Anghie, ‘Asia in the History and Theory of International law’ in [*The Oxford Handbook of International Law in Asia and the Pacific*](https://opil-ouplaw-com.uaccess.univie.ac.at/view/10.1093/law/9780198793854.001.0001/law-9780198793854)(2019). (24 pages)

***Unequal Treaties:***  
Treaty of Nanjing between China and Great Britain 1842 (3 pages);  
Treaty of Wanghia between China and the USA 1844 (2 pages);  
Treaty of Kanagawa between the USA and Japan 1854 (esp. Articles 2, 3 and 9) (3 pages);  
Harris Treaty 1858 between the USA and Japan (2 pages);  
Eulsa Treaty between Japan and Korea 1905 (1 page).

‘The standard of “civilization” and international law in the 19th century: Statements from Europe and Asia.’ (3 pages)

*Further Reading*

Xue Hanqin, ‘[Meaningful Dialogue Through a Common Discourse: Law and Values in a Multi-Polar World’](https://www-cambridge-org.uaccess.univie.ac.at/core/journals/asian-journal-of-international-law/article/meaningful-dialogue-through-a-common-discourse-law-and-values-in-a-multipolar-world/9A253CCD79CB1283F64FE4108F38C6DD) *Asian Journal of International Law* (2011). (7 pages)

Shogo Suzuki, ‘[China’s Perceptions of International Society in the Nineteenth Century: Learning More about Power Politics?](https://muse-jhu-edu.uaccess.univie.ac.at/article/784565/pdf)’ 28 *Asian Perspectives* 115 (2004).

Zhiguang Yin, ‘[Heavenly Principles? The Translation of International Law in 19th-century China and the Constitution of Universality’](https://heinonline-org.uaccess.univie.ac.at/HOL/Page?lname=&public=false&collection=journals&handle=hein.journals/eurint27&men_hide=false&men_tab=toc&kind=&page=1005) (2017) *EJIL* 1006. (19 pages)

Ryan Martinez Mitchell, ‘[China’s Participation in the Second Hague Conference and the Concept of Equal Sovereignty in International Law](https://www.proquest.com/docview/2612629389?parentSessionId=uzbEpEDwiaU7ZeNr1SUhZECnk7%2BwmHZV70sjikA3jZc%3D&pq-origsite=primo&accountid=14682)’ (2021). (20 pages)

Kohki Abe, ‘[International Law as Memorial Sites: The “Comfort Women” Lawsuits Revisited’](https://brill-com.uaccess.univie.ac.at/view/journals/kjic/1/2/article-p166_3.xml) *The Korean Journal of International and Comparative Law* (2013) (22 pages)

Pan Junwu, ‘[Chinese Philosophy and International Law](https://www-cambridge-org.uaccess.univie.ac.at/core/journals/asian-journal-of-international-law/article/chinese-philosophy-and-international-law/7BBE9EF2E0E89958E7C5A81C2BC8CB01)’ *Asian Journal of International Law* (2011) 233. (16 pages)

V.S. Mani, ‘[An Indian Perspective on the Evolution of International Law on the Threshold of the Third Millennium](https://brill.com/view/book/edcoll/9789047406211/BP000003.xml?language=en)’ (2000) (47 pages)

Diane A. Desierto, ‘[Postcolonial International Law Discourses on Regional Developments in South and Southeast Asia](https://www-cambridge-org.uaccess.univie.ac.at/core/journals/international-journal-of-legal-information/article/postcolonial-international-law-discourses-on-regional-developments-in-south-and-southeast-asia/137072E31AE4440C701E4A060539108B)’ *International Journal of Legal Information* (2019). (45 pages)

1. **Asian approaches to International Law?**

Questions: Which aspects of international law did Asian states embrace, and which aspects did they reject? Is there an Asian approach to international law?

*Required Reading*

Simon Chesterman, ‘Asia’s Ambivalence about International Law’ in [*The Oxford Handbook of International Law in Asia and the Pacific*](https://opil-ouplaw-com.uaccess.univie.ac.at/view/10.1093/law/9780198793854.001.0001/law-9780198793854)(2019). (20 pages)

‘Chinese Statements in the third United Nations Conference on the Law of the Sea concerning the jurisdiction of the International Tribunal for the Law of the Sea’ (1 page)

B.S. Chimni, ‘[Is there an Asian Approach to International Law](https://www-jstor-org.uaccess.univie.ac.at/stable/10.1163/j.ctv2gjwxz1.12?pq-origsite=summon&seq=4#metadata_info_tab_contents)’ *AYIL* (2011). (15 pages) **OR** Wang Tieya, ‘The Concept of Sovereignty’ in [*International Law in China: Historical and contemporary perspectives*](https://referenceworks-brillonline-com.uaccess.univie.ac.at/entries/the-hague-academy-collected-courses/*A9780792312239_02)*, Collected courses of the Hague Academy of International Law* (1990). (27 pages)

*Further Reading*

Christian Tomuschat, ‘[Asia and International Law – Common Ground and Regional Diversity](https://www-cambridge-org.uaccess.univie.ac.at/core/journals/asian-journal-of-international-law/article/asia-and-international-lawcommon-ground-and-regional-diversity/A5B4702CD4BCBBF2C8D35D574047366A)’ *Asian Journal of International Law* (2011) 217. (15 pages).

Seung-Jin Oh, ‘[Historical Injustice and Dispute Settlement in Asia](https://brill-com.uaccess.univie.ac.at/view/journals/kjic/6/1/article-p99_12.xml)’ *Korean Journal of International and Comparative Law* (2018) 99. (3 pages)

Hungdah Chiu, ‘[Chinese Views on the Sources of International Law](https://heinonline-org.uaccess.univie.ac.at/HOL/Page?lname=&public=false&collection=journals&handle=hein.journals/hilj28&men_hide=false&men_tab=toc&kind=&page=289)’, (1987) 28 *Harvard International Law Journal* 289. (20 pages)

Niels Petersen, ‘[International Law, Cultural Diversity, and Democratic Rule: Beyond the Divide Between Universalism and Relativism](https://www-cambridge-org.uaccess.univie.ac.at/core/journals/asian-journal-of-international-law/article/international-law-cultural-diversity-and-democratic-rule-beyond-the-divide-between-universalism-and-relativism/F1FC3B39AFCB29A0CE8C7C8FB2E7C6A0)’ *Asian Journal of International Law* (2011). (15 pages)

Chen Yifeng. (2017) ‘[International law as mere obligations: Supremacy of International Law and a Chinese Conception](https://www-tandfonline-com.uaccess.univie.ac.at/doi/full/10.1080/20517483.2017.1427141)’ *Peking University Law Journal*, 5(2), 285–308. (21 pages)

Phil CW Chan, ‘[China’s Approaches to International Law since the Opium War](https://brill-com.uaccess.univie.ac.at/view/book/9789004288379/B9789004288379-s004.xml)’ *Leiden Journal of International Law* (2014).

Muthucumaraswamy Sornarajah, ‘[The Asian Perspective to International Law in the Age of Globalization](https://cil.nus.edu.sg/wp-content/uploads/2018/07/m-sornarajah-the-asian-perspective-to-international-law-in-the-age-of-globalization.pdf)’ (2001). (30 pages)

1. **The contribution of Asian states to the Making of International Law**

Question: How have Asian countries influenced the development of international law?

*Required Reading*

Asian Organizations: Tan Hsien-Li, ‘Regional Organizations’, in [*The Oxford Handbook of International Law in Asia and the Pacific*](https://opil-ouplaw-com.uaccess.univie.ac.at/view/10.1093/law/9780198793854.001.0001/law-9780198793854)(2019). Read pages 37-51 (14 pages)

Asian Values: Fareed Zakaria ‘[Culture Is Destiny: A Conversation with Lee Kuan Yew](https://www.proquest.com/docview/214285529?parentSessionId=%2FmzRHJ7afxkLxZrobtDN4SwEf%2Bmlctq%2FR2HCro9VGCs%3D&pq-origsite=primo&accountid=14682)’ *Foreign Affairs*, 73(2), 109–126 (18 pages).

Historic Rights: Dupuy and Dupuy, ‘[A legal Analysis of China’s Historic Rights Claim in the South China Sea](https://www-cambridge-org.uaccess.univie.ac.at/core/journals/american-journal-of-international-law/article/legal-analysis-of-chinas-historic-rights-claim-in-the-south-china-sea/1AA8501E383CFDEC1C95E55B8D11CFEE)’ AJIL (2017). (17 pages)

Five Principles of Peaceful Coexistence: Agreement between the Republic of India and the People’s Republic of China on Trade and Intercourse between Tibet Region of China and India (0.5 pages)

*Further Reading*

Final Communiqué of the Asian-African Conference in Bandung, 24 April 1955 (11 pages)

Sung-Won Kim, ‘[The Eastphalian Project Revisited](https://brill-com.uaccess.univie.ac.at/view/journals/kjic/6/1/article-p102_13.xml)’ *Korean Journal of International Law* (2018). (15 pages)

Wang Tieya, in [*International Law in China: Historical and contemporary perspectives*](https://referenceworks-brillonline-com.uaccess.univie.ac.at/entries/the-hague-academy-collected-courses/*A9780792312239_02)*, Collected courses of the Hague Academy of International Law* (1990). (175 pages) – E.g., the chapter about the five principles of peaceful coexistence (p. 263 ff).

Jose Duke Bagulaya, ‘[ASEAN as Wayang Kulit: A Critique of the Constitutional, Extra-constitutional, and Practical Fetters of ASEAN](https://www-cambridge-org.uaccess.univie.ac.at/core/journals/asian-journal-of-international-law/article/asean-as-wayang-kulit-a-critique-of-the-constitutional-extraconstitutional-and-practical-fetters-of-asean/7507E5212826F01F68EA9E09AE3B7528)’ (2019). (23 pages)

Simon Chesterman, ‘[Does ASEAN Exist? The Association of Southeast Asian Nations as an International Legal Person](https://heinonline-org.uaccess.univie.ac.at/HOL/Page?lname=&public=false&collection=journals&handle=hein.journals/singa12&men_hide=false&men_tab=toc&kind=&page=199)’ XII *Singapore Year Book of International Law* 199 (2008). (13 pages)

Karen Engle, ‘[Culture and Human Rights: The Asian Values Debate in Context](https://heinonline-org.uaccess.univie.ac.at/HOL/Page?lname=&public=false&collection=journals&handle=hein.journals/nyuilp32&men_hide=false&men_tab=toc&kind=&page=291)’ *New York University Journal of International Law & Politics*, 32(2) (2000). (43 pages)

Yuhong Chai, ‘[Regional Dispute Resolution: An International Civil Dispute Resolution Model for East Asia](https://www-cambridge-org.uaccess.univie.ac.at/core/books/international-governance-and-the-rule-of-law-in-china-under-the-belt-and-road-initiative/regional-dispute-resolution/2C75B1418EFC8439DA570CF7272D6BC0)’ in *International Governance and the Rule of Law in China under the Belt and Road Initiative* (2018). (16 pages)

1. **Human Rights in Asia: Part I - The Asian Perspective**

Question: Is a distinctively Asian approach to human rights feasible?

Required Reading

Hurst Hannum, ‘Human Rights’ in [*The Oxford Handbook of International Law in Asia and the Pacific*](https://opil-ouplaw-com.uaccess.univie.ac.at/view/10.1093/law/9780198793854.001.0001/law-9780198793854)(2019). (17 pages)

Bangkok Declaration on Human Rights (1993) (5 pages)

Letter written by Mahatma Gandhi on 25 May 1947 to the then Director-General of UNESCO, Julian Huxley (1 page).

Letter from Chung-Shu Lo 1947 ‘Human Rights in the Chinese Tradition’ (4 pages).

Speech by Liu Huaqiu, Head of the Chinese Delegation at the World Conference on Human Rights (Vienna: Permanent Mission of the PRC to the United Nations in Vienna, 15 June 1993). (4 pages)

*Further Reading*

Kuala Lumpur Declaration on Human Rights (1993). (4 pages)

Damien Kingsbury, ‘[Universalism and Exceptionalism in “Asia”’](https://link.springer.com/chapter/10.1057/9780230615496_2) in *Human Rights in Asia: A Reassessment of the Asian Values Debate* (2008). (21 pages)

Jau-Hwa Chen, ‘[Asia Values? Why Not, But How](https://link-springer-com.uaccess.univie.ac.at/chapter/10.1057/9780230615496_3)?’ in *Human Rights in Asia: A Reassessment of the Asian Values Debate* (2008). (21 pages)

Michael C. Davis, ‘[Human Rights in Asia: China and the Bangkok Declaration](https://digitalcommons.law.buffalo.edu/bjil/vol2/iss2/3/)’ 2 *Buffalo Journal of International Law* (1995). (8 pages)

Bilahari Kausikan, ‘[Asia’s Different Standard](https://www-jstor-org.uaccess.univie.ac.at/stable/1149143#metadata_info_tab_contents)’ 92 *Foreign Policy* 24 (1993). (18 pages). Response: Arieh Neier, ‘[Asia’s Unacceptable Standard](https://www-jstor-org.uaccess.univie.ac.at/stable/1149144#metadata_info_tab_contents)’ 92 *Foreign Policy* 42, 43 (1993). (10 pages)

Surya Subedi, ‘[Are the Principles of Human Rights ‘Western’ Ideas? An Analysis of the Claim of the ‘Asian’ Concept of Human Rights from the Perspective of Hinduism](https://heinonline-org.uaccess.univie.ac.at/HOL/Page?lname=&public=false&collection=journals&handle=hein.journals/calwi30&men_hide=false&men_tab=toc&kind=&page=45)’ *California Western International Law Journal* (1999). (25 pages)

1. **Human Rights in Asia Part II: Recent developments in Asia**

Questions: Can we discern a typical Asian understanding of Human Rights in recent developments such as the social credit system in China, and the ASEAN Human Rights Declaration? Does the ASEAN Human Rights Declaration endorse universal human rights, or is it the product of a distinctively Asian Approach to Human Rights? Does the Chinese social credit system comply with human rights obligations under international law?

*Required Reading*

ASEAN Human Rights Declaration (4 pages).

Catharine Shanahan Renshaw, ‘[The ASEAN Human Rights Declaration 2012](https://heinonline-org.uaccess.univie.ac.at/HOL/Page?lname=&public=false&collection=journals&handle=hein.journals/hrlr13&men_hide=false&men_tab=toc&kind=&page=557)’ *Human Rights Law Review* (2013). (23 pages)

Lizzy Rettinger, ‘[The Human Rights Implications of China’s Social Credit System](https://go-gale-com.uaccess.univie.ac.at/ps/retrieve.do?tabID=T002&resultListType=RESULT_LIST&searchResultsType=SingleTab&hitCount=1&searchType=AdvancedSearchForm&currentPosition=1&docId=GALE%7CA652194803&docType=Article&sort=RELEVANCE&contentSegment=ZONE-MOD1&prodId=AONE&pageNum=1&contentSet=GALE%7CA652194803&searchId=R1&userGroupName=43wien&inPS=true)’ (2021) *Journal of High Technology Law*, 21(1), 1. -> Read pages 1-13; 19-27 (23 pages).

*Further Reading*

Nicholas Doyle, ‘[The ASEAN Human Rights Declaration and the Implications of Recent Southeast Asian Initiatives in Human Rights institution-building and standard-setting](https://www-cambridge-org.uaccess.univie.ac.at/core/journals/international-and-comparative-law-quarterly/article/asean-human-rights-declaration-and-the-implications-of-recent-southeast-asian-initiatives-in-human-rights-institutionbuilding-and-standardsetting/2FEEDB5B71A58AB7B74E741714105F8A)’ *International and Comparative Law Quarterly* (2014). (35 pages)

John D Ciorciari, ‘[Institutionalizing Human Rights in Southeast Asia](https://www-jstor-org.uaccess.univie.ac.at/stable/23254642#metadata_info_tab_contents)’ *Human Rights Quarterly* (2012). (31 pages)

China State Council Information Office, ‘The Right to Development: China’s Philosophy, Practice and Contribution’ (2016) (5 pages)

P. C. W. Chan, ‘[Human Rights and Democracy with Chinese Characteristics?](https://heinonline-org.uaccess.univie.ac.at/HOL/Page?lname=&public=false&collection=journals&handle=hein.journals/hrlr13&men_hide=false&men_tab=toc&kind=&page=645)’13 *Human Rights Law Review* 645 (2013). (45 pages)

1. **Minorities and Indigenous Peoples in Asia Part I: Human rights law¸**

Question: Which circumstances have contributed to the oppression of (ethnic) minorities in Asia? Can the international human rights regime provide a solution to minorities seeking protection in / from Asian states? What are the challenges?

*Required Reading*

Mohammad Shahabuddin, ‘[Post-colonial Boundaries, International Law, and the Making of the Rohingya Crisis in Myanmar](https://www-cambridge-org.uaccess.univie.ac.at/core/journals/asian-journal-of-international-law/article/postcolonial-boundaries-international-law-and-the-making-of-the-rohingya-crisis-in-myanmar/91F3B2AF9E7679F12BE5FA38BEBED602)’ *Asian Journal of International Law* (2019) (25 pages).

Joshua Castellino and Elvira D Redondo, ‘[Asian states, international human rights law, and minority rights](https://academic-oup-com.uaccess.univie.ac.at/book/12185/chapter/161618459?login=true)’, in J. Castellino & ED Redondo (eds), *Minority rights in Asia: A comparative legal analysis*, Oxford, Oxford University Press (2006). Read pages 11-26 (16 pages)

Article 27 of the International Covenant on Civil and Political Rights (ICCPR); Joint Article 1 of the ICCPR and the International Covenant on Economic, Social and Cultural Rights; Article 2(2) of the International Convention on the Elimination of All Forms of Racial Discrimination; Article 30 of the Convention on the Rights of the Child (‘Minority Rights – an overview’). (1 page)

*Further Reading*

OHCHR, [OHCHR Assessment of human rights concerns in the Xinjiang Uyghur Autonomous Region PRC](https://www.ohchr.org/sites/default/files/documents/countries/2022-08-31/22-08-31-final-assesment.pdf) (2022). (48 pages)

Anna Mejknecht and Byung Sook de Vries, ‘[Is there a Place for Minorities’ and Indigenous Peoples’ Rights within ASEAN?: Asian Values, ASEAN Values, and the Protection of Southeast Asian Minorities and Indigenous Peoples](https://brill-com.uaccess.univie.ac.at/view/journals/ijgr/17/1/article-p75_3.xml)’ (2010). (36 pages)

Alim Seytoff and Henryk Szadziewski, ‘[China’s most oppressed Uyghur exclusion and discrimination](https://www-taylorfrancis-com.uaccess.univie.ac.at/chapters/edit/10.4324/9781315720180-6/china-oppressed-alim-seytoff-henryk-szadziewski)’ in *Handbook of Human Rights in Asia* (2018). (11 pages)

Raja Devasish Roy, ‘[Opportunities and challenges in implementing indigenous peoples’ human rights in Asia](https://www-taylorfrancis-com.uaccess.univie.ac.at/chapters/edit/10.4324/9781315720180-21/opportunities-challenges-implementing-indigenous-peoples-human-rights-asia-raja-devasish-roy?context=ubx&refId=62483e5c-9ec6-4a86-86e7-6b3054ea93c4)’ in *Handbook of Human Rights in Asia* (2018). (13 pages)

Raees Begum Baig, ‘[Civil and political participation and minority rights protection in East Asia](https://www-taylorfrancis-com.uaccess.univie.ac.at/chapters/edit/10.4324/9781315720180-5/civil-political-participation-minority-rights-protection-east-asia-raees-begum-baig)’ in *Handbook of Human Rights in Asia* (2018). (10 pages)

Niki Esse de Lang, ‘[The Rohingya and other Muslim minorities in Myanmar](https://www-taylorfrancis-com.uaccess.univie.ac.at/chapters/edit/10.4324/9781315720180-12/rohingya-muslim-minorities-myanmar-niki-esse-de-lang?context=ubx&refId=6d60fa2e-5b55-402f-ac7d-77ec1eb69fd3)’ in *Handbook of Human Rights in Asia* (2018) (21 pages)

Ross Holder, ‘[On the interrelatedness of human rights, culture, and religion: considering the significance of cultural rights in protecting the religious identity of China’s Uyghur minority](https://www-tandfonline-com.uaccess.univie.ac.at/doi/full/10.1080/13642987.2020.1725487)’ *The International Journal of Human Rights* (2021). (15 pages)

Mohammad Shahbuddin, ‘[The myth of colonial ‘protection’ of indigenous peoples: The Case of the Chittagong Hill Tracts under British Rule](https://brill-com.uaccess.univie.ac.at/view/journals/ijgr/25/2/article-p210_210.xml)’ *International Journal on Minority and Group Rights* (2018). (19 pages)

1. **Minorities and Indigenous Peoples in Asia Part II: Indigenous rights and self-determination**

Question: Why is it difficult to apply the concept of ‘indigenous peoples’ in Asia? Which indigenous peoples in Asia require special protection? What is the significance of the UN Declaration on the Rights of Indigenous Peoples from the perspective of indigenous peoples in Asia?

*Required Reading*

Benedict Kingsbury, ‘[Indigenous Peoples’ in International Law: A Constructivist Approach to the Asian Controversy](https://www-cambridge-org.uaccess.univie.ac.at/core/journals/american-journal-of-international-law/article/indigenous-peoples-in-international-law-a-constructivist-approach-to-the-asian-controversy/18447D2FD6F3DE7BD08D98A3C8E1EB1D)’ 92 *American Journal of International Law* (1998) -> read pages 416-424; 428-436; 436-441; 446-457. (36 pages)

United Nations Declaration on the Rights of Indigenous Peoples -> read Articles 1-46. (11 pages)

*Further Reading*

ILO Convention 169 Concerning Indigenous and Tribal Peoples in Independent Countries, 27 June 1989, 1650 U.N.T.S. 383 (entered into force 5 September 1991) [ILO Convention No. 169]. (12 pages)

Consultation on the Situation of Indigenous Peoples in Asia, Report of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People, finalized by James Anaya, UN Doc. A/HRC/24/41/Add.3 (2013). (15 pages)

Outcome Document of the World Conference on Indigenous Peoples (2014) 2014. (6 pages)

Alexandra Xanthaki, ‘[Land Rights of indigenous peoples in South-East Asia](https://go-gale-com.uaccess.univie.ac.at/ps/i.do?ty=as&v=2.1&u=43wien&it=DIourl&s=RELEVANCE&p=AONE&qt=TI~%22Land+rights+of+indigenous%22~~SN~1444-8602~~VO~4~~IU~2~~SP~467&lm=DA~120030000&sw=w)’ *Melbourne Journal of International Law* (2003). (30 pages)

Derek Inman, ‘[From the Global to the Local: The Development of Indigenous Peoples’ Land Rights Internationally and in Southeast Asia](https://www-cambridge-org.uaccess.univie.ac.at/core/journals/asian-journal-of-international-law/article/from-the-global-to-the-local-the-development-of-indigenous-peoples-land-rights-internationally-and-in-southeast-asia/BC915D139656DA6A91078B57F1F31C7E)’ *Asian Journal of International Law* (2016). (43 pages)

Amiel Ian Valdez, ‘[Balancing the Indigenous Peoples’ Ancestral Sea Rights, and the State’s Obligation to Protect and Preserve the Marine Environment](https://brill-com.uaccess.univie.ac.at/view/journals/aphu/23/1/article-p47_3.xml)’ *Asia-Pacific Journal on Human Rights and the Law* (2022) (33 pages).

Stephen Allen, ‘[Establishing Autonomous Regimes in the Republic of China: The Salience of International Law for Taiwan’s Indigenous Peoples](https://jps.library.utoronto.ca/index.php/ilj/article/view/27686/20416)’ 4 *Indigenous Law Journal* (2005). (59 pages)

Jose Mencio Molintas, [‘‘The Philippines Indigenous Peoples’ Struggle for Land and Life: Challenging Legal Texts’’](https://heinonline-org.uaccess.univie.ac.at/HOL/Page?lname=&public=false&collection=journals&handle=hein.journals/ajicl21&men_hide=false&men_tab=toc&kind=&page=269) 21 *Arizona Journal of International and Comparative Law* (2004). (31 pages)

Chandra K Roy ‘Indigenous Peoples in Asia: Rights and Development Challenges’, in C Charters & R Stavenhagen (eds), [*Making the Declaration Work: The United Nations Declaration on the Rights of* *Indigenous Peoples*](https://www.iwgia.org/images/publications/making_the_declaration_work.pdf) (2009). (15 pages)

Kalana Senaratne, ‘[Internal Self-Determination in International Law: A critical Third-World Perspective](https://www-cambridge-org.uaccess.univie.ac.at/core/journals/asian-journal-of-international-law/article/internal-selfdetermination-in-international-law-a-critical-thirdworld-perspective/D50802D44C5C534376496283B78D220B)’ *Asian Journal International Law* (2013). (34 pages)

1. **The South China Sea Dispute Part I: Chinese vs. Philippines Perspective**

Question: What were the legal arguments regarding the question of whether the South China Sea Arbitral Tribunal had jurisdiction? What were the positions concerning the “historic rights” asserted by China, and the rights of the Philippines based on UNCLOS?

*Required Reading*

Ted L. McDorman, ‘[The South China Sea Arbitration: Selected Legal Notes](https://www-jstor-org.uaccess.univie.ac.at/stable/10.1163/j.ctvbqs7d3.4?pq-origsite=summon#metadata_info_tab_contents)’ *Asian Yearbook of International Law* (2018). (13 pages)

The Republic of the Philippines v. The People’s Republic of China, Award on Jurisdiction and Admissibility, Permanent Court of Arbitration Case No. 2013-19, 29 October 2015. -> Read paras 130-178. (27 pages)

*Further Reading*

Position Paper of the Government of the People's Republic of China on the Matter of Jurisdiction in the South China Sea Arbitration Initiated by the Republic of the Philippines (24 pages)

Kate Parlett, ‘[Jurisdiction of the Arbitral Tribunal in Philippines v China under UNCLOS and in the absence of China](https://www-jstor-org.uaccess.univie.ac.at/stable/27003219?sid=primo#metadata_info_tab_contents)’ *ASIL Symposium on the South China Sea Arbitration* (2016). (7 pages)

Lowell Bautista, ‘[The South China Sea Arbitration and Historic Rights in the Law of the Sea](https://law.upd.edu.ph/wp-content/uploads/2020/12/PYIL-Vol.17-v0-29Dec20-The-South-China-Sea-Arbitration.pdf)’ *Philippine Yearbook of International Law* (2018). (40 pages)

Dupuy and Dupuy, ‘[A legal Analysis of China’s Historic Rights Claim in the South China Sea](https://www-cambridge-org.uaccess.univie.ac.at/core/journals/american-journal-of-international-law/article/legal-analysis-of-chinas-historic-rights-claim-in-the-south-china-sea/1AA8501E383CFDEC1C95E55B8D11CFEE)’ *AJIL* (2017). (17 pages)

Qiang Ye, ‘[Historic Rights in the South China Sea A Chinese Perspective](https://brill-com.uaccess.univie.ac.at/view/journals/kjic/7/2/article-p208_7.xml)’ *Korean Journal of International and Comparative Law* (2019). (18 pages)

Renyuan Li, ‘[Legality of China’s Entitlements of Historic Rights beyond the UNCLOS in the South China Sea: An Analysis of the Negotiation History](https://brill-com.uaccess.univie.ac.at/view/journals/kjic/7/2/article-p249_9.xml)’ *Korean Journal of International and Comparative Law* (2019). (13 pages)

Chenhong Liu, ‘[Regional Customary International Law Related to China’s Historic Rights in the South China Sea](https://brill-com.uaccess.univie.ac.at/view/journals/kjic/7/2/article-p262_10.xml)’ *Korean Journal of International and Comparative Law* (2019). (15 pages)

Ma Xinmin, ‘[Merits Award Relating to Historic Rights in the South China Sea Arbitration: An Appraisal](https://www-cambridge-org.uaccess.univie.ac.at/core/journals/asian-journal-of-international-law/article/merits-award-relating-to-historic-rights-in-the-south-china-sea-arbitration-an-appraisal/3EBFC6F0CEAAD0E782A86A9D04349F0E)’ *Asian Journal of International Law* (2018). (12 pages)

Christian Schultheiss, ‘”[One of the first Matters to be Addressed but Distinct” or “Distinct but Inseparable”? The Distinction between Maritime Entitlement and Sea Boundary Delimitation in the Philippines v China Arbitration](https://www.proquest.com/docview/2531493284?parentSessionId=h1QU8uMo9QQOvGpzzc2bItNifeeN0td18aH5w5nNoDc%3D&pq-origsite=primo&accountid=14682)”’ *Asian Journal of International Law* (2021). (12 pages)

Bernard H. Oxman, ‘[The South China Sea Arbitration Award](https://repository.law.miami.edu/umiclr/vol24/iss2/4/)’, 24 *University of Miami International and Comparative Law Review* 235 (2017).

1. **South China Sea Dispute Part II: implications of the South China Sea Arbitration; reluctance to use international dispute settlement**

Question: The aftermath of the South China Sea Award: What are the implications?

Do Asian states hesitate to use international dispute settlement?

*Required Reading*

Hisashi Owada and Samuel Chang, ‘International Dispute Settlement’ in [*The Oxford Handbook of International Law in Asia and the Pacific*](https://opil-ouplaw-com.uaccess.univie.ac.at/view/10.1093/law/9780198793854.001.0001/law-9780198793854)(2019). (27 pages)

The Republic of the Philippines v. The People’s Republic of China’, Award, Permanent Court of Arbitration Case No. 2013-19, 12 July 2016. Read paras 225-278 (23 pages).

Statement of the Ministry of Foreign Affairs of the People’s Republic of China on the Award of 12 July 2016 of the Arbitral Tribunal in the South China Sea Arbitration Established at the Request of the Republic of the Philippines, issued on July 12, 2016. (2 pages)

*Further Reading*

Statement of the Ministry of Foreign Affairs on the Award on Jurisdiction and Admissibility

of the South China Sea Arbitration by the Arbitral Tribunal Established at the Request

of the Republic of the Philippines, 30 October 2015. (2 pages)

Statements from the Philippine Side after the South China Sea Arbitration Award. (2 pages)

Diane A Desierto, ‘[Enforcement Options and Paths to Compliance: Disputants and Global Stakeholders in Philippines v. China](https://www-cambridge-org.uaccess.univie.ac.at/core/journals/asian-journal-of-international-law/article/enforcement-options-and-paths-to-compliance-disputants-and-global-stakeholders-in-philippines-v-china1/301C8318AA1F6040C458EDDC4F443CF5)’ *Asian Journal of International Law* (2018). (12 pages)

Jacques de Lisle, ‘[Political-Legal Implications of the July 2016 Arbitration Decision in the Philippines-PRC Case Concerning the South China Sea: The United States, China, and International Law](https://www-jstor-org.uaccess.univie.ac.at/stable/10.1163/j.ctvbqs7d3.7?pq-origsite=summon#metadata_info_tab_contents)’ *Asian Yearbook of International Law* (2015). (34 pages)

Douglas Guilfoyle, ‘[The South China Sea Award: How Should we read the UN Convention on the Law of the Sea?](https://www-cambridge-org.uaccess.univie.ac.at/core/journals/asian-journal-of-international-law/article/south-china-sea-award-how-should-we-read-the-un-convention-on-the-law-of-the-sea/DD5B90D9438D8B3C55BC57EA6D8CD175)’ *Asian Journal of International Law* (2018). (13 pages)

Lan Ngoc Nguyen, ‘[The UNCLOS Dispute Settlement System: What Role Can it play in resolving maritime disputes in Asia?](https://www-cambridge-org.uaccess.univie.ac.at/core/journals/asian-journal-of-international-law/article/unclos-dispute-settlement-system-what-role-can-it-play-in-resolving-maritime-disputes-in-asia/A842AD7E3E49F1FA7E4E5CEE765E06FC)’ *Asian Journal of International Law* (2018). (25 pages)

Hao Duy Phan and Lan Ngoc Nguyen, ‘[The South China Sea Arbitration: Bindingness, Finality, and Compliance with UNCLOS Dispute Settlement Decisions](https://www-cambridge-org.uaccess.univie.ac.at/core/journals/asian-journal-of-international-law/article/south-china-sea-arbitration-bindingness-finality-and-compliance-with-unclos-dispute-settlement-decisions/DCC46DCC85F5E815DE4AA868CF1874E0)’ *Asian Journal of International Law* (2018). (15 pages)

M. Taylor Fravel, ‘[Territorial and Maritime Boundary Disputes in Asia](https://web-s-ebscohost-com.uaccess.univie.ac.at/ehost/ebookviewer/ebook/bmxlYmtfXzgxNzMyNV9fQU41?sid=41c55337-02f5-48b8-9548-bbbc090b6112@redis&vid=0&format=EB&lpid=lp_587&rid=0)’ in *The Oxford Handbook of the International Relations of Asia* (2014, OUP). (23 pages)

1. **International Economic Law Part I: Asian regionalism**

Question: What are the characteristics and challenges of Asian regionalism in international economic law?

*Required Reading*

Wang Jiangyu,‘International Economic Law and Asia’ in [*The Oxford Handbook of International Law in Asia and the Pacific*](https://opil-ouplaw-com.uaccess.univie.ac.at/view/10.1093/law/9780198793854.001.0001/law-9780198793854)(2019). (30 pages)

***Further Reading***

Deborah K. Elms, ‘[Getting RCEP across the Line](https://www.proquest.com/docview/2541690727?parentSessionId=B7hR2hU4OkQPPM%2FI65ci%2BjElTLXngbBbdDYUXuO3xIk%3D&pq-origsite=primo&accountid=14682)” *World Trade Review* (2021). (8 pages)

Amitendu Palit, ‘[Will India’s Disengaging Trade Policy Restrict It from Playing a Greater Global Role?](https://www-proquest-com.uaccess.univie.ac.at/docview/2518927313?pq-origsite=primo)’ *World Trade Review* (2021). (17 pages)

Henry Gao, ‘[China’s Changing Perspective on the WTO: From Aspiration, Assimilation to Alienation](https://www-cambridge-org.uaccess.univie.ac.at/core/journals/world-trade-review/article/chinas-changing-perspective-on-the-wto-from-aspiration-assimilation-to-alienation/2622CA7B587B610232F23108F190837D)’ *World Trade Review* (2022). (17 pages)

Joel P Trachtman, ‘[The WTO and development policy in China and India](https://www-cambridge-org.uaccess.univie.ac.at/core/books/china-india-and-the-international-economic-order/wto-and-development-policy-in-china-and-india/755FCA0ECFD95AE9A854BF413F8D1C92)’ in *China, India, and the international Economic Order* (2011). (33 pages)

Jiangyu Wang, ‘[The role of China and India in Asian regionalism](https://www-cambridge-org.uaccess.univie.ac.at/core/books/china-india-and-the-international-economic-order/role-of-china-and-india-in-asian-regionalism/78884C8426B8144E85C818AA65FFB863)’ in *China, India, and the international Economic Order* (2011). (48 pages)

Chien-Huei Wu, ‘[ASEAN at the Crossroads: Trap and Track between CPTPP and RCEP](https://academic-oup-com.uaccess.univie.ac.at/jiel/article/23/1/97/5640434?login=true)’ *JIEL* (2020). (21 pages).

Kristi Govella, ‘[The Adaptation of Japanese Economic Statecraft: Trade, Aid, and Technology](https://www-proquest-com.uaccess.univie.ac.at/docview/2518928252?pq-origsite=primo)’ *World Trade Review* (2021). (14 pages)

Peter A Petri and Michael Plummer, ‘[RCEP: A new trade agreement that will shape global economics and politics](https://www.brookings.edu/blog/order-from-chaos/2020/11/16/rcep-a-new-trade-agreement-that-will-shape-global-economics-and-politics/)’ *Brookings* (2020). (5 pages)

Gregory Shaffer, [Emerging Powers and the World Trading System: The Past and Future of International Economic Law](https://www-cambridge-org.uaccess.univie.ac.at/core/books/emerging-powers-and-the-world-trading-system/260AE77E88428799AD0B400C831806A0) (Cambridge University Press 2021)

1. **International Economic Law and Asia Part II: Economic institutions and initiatives**

Question: What are the characteristics of China-led economic institutions and initiatives in Asia and beyond? How could Asian approaches to international economic law influence the global economic order?

*Required Reading*

David M. Ong, ‘[The Asian Infrastructure Investment Bank: Bringing ‘Asian Values’ to Global Economic Governance?](https://heinonline-org.uaccess.univie.ac.at/HOL/Page?lname=&public=false&collection=journals&handle=hein.journals/jiel20&men_hide=false&men_tab=toc&kind=&page=535)’ *JIEL* (2017). (26 pages)

Heng Wang, ‘[China’s Approach to the Belt and Road Initiative: Scope, Character and Sustainability](https://academic-oup-com.uaccess.univie.ac.at/jiel/article/22/1/29/5272447?login=true)’ *JIEL* (2019). (27 pages)

*Further Reading*

Bin Gu, ‘[Chinese Multilateralism in the AIIB](https://academic-oup-com.uaccess.univie.ac.at/jiel/article/20/1/137/3073471?login=true)‘ *JIEL* (2017). (22 pages)

Gregory Shaffer and Henry Gao, ‘[A New Chinese Economic Order?](https://academic-oup-com.uaccess.univie.ac.at/jiel/article/23/3/607/5878140?searchresult=1)’ *JIEL* (2020). (29 pages)

Johanna Aleria P Lorenzo, ‘[A Path Toward Sustainable Development Along the Belt and Road](https://academic-oup-com.uaccess.univie.ac.at/jiel/article/24/3/591/6375184?searchresult=1)’ *JIEL* (2021). (18 pages)

Heng Wang, ‘[Selective Reshaping: China’s Paradigm Shift in International Economic Governance](https://academic-oup-com.uaccess.univie.ac.at/jiel/article/23/3/583/5902817?searchresult=1)’ *JIEL* (2021). (24 pages)