

JULIAN ARATO

Professor of Law, Brooklyn Law School
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ACADEMIC APPOINTMENTS:

BROOKLYN LAW SCHOOL, Brooklyn NY

<i>Professor of Law</i>	2020 – present
<i>Co-Director, Dennis J. Block Center for the Study of International Business Law</i>	2017 – present
<i>Associate Professor of Law</i>	2018 – 2020
<i>Assistant Professor of Law</i>	2015 – 2018
Courses:	International Trade Law; International Law; Contracts; Corporations; Brooklyn Colloquium on International Economic Law
Awards:	Distinguished Faculty Member of the Year, 2017-2018

COLUMBIA LAW SCHOOL, New York, NY

Associate-in-Law, Postdoctoral Fellow & Lecturer in Law 2013 – 2015

VISITING POSITIONS:

COLUMBIA LAW SCHOOL, <i>Visiting Professor of Law</i>	2021 (fall)
Courses:	Contracts

EDUCATION:

COLUMBIA LAW SCHOOL, J.S.D., 2016

Dissertation: *Toward a Private Law Theory of International Investment Law*

NEW YORK UNIVERSITY SCHOOL OF LAW, J.D., *cum laude*, 2011; LL.M., 2012

Honors: Jerome Lipper Prize (convocation award for outstanding work in international law)
Institute for International Law and Justice (IILJ) Scholar (J.D.–LL.M.)
Journal of International Law and Politics, Senior Articles Editor 2010-2011

UNIVERSITY OF CAMBRIDGE, KING'S COLLEGE, M.Phil., Political Thought & Intellectual History, 2008

COLUMBIA COLLEGE, B.A., History & Philosophy, *magna cum laude*, 2007

PUBLICATIONS:

ARTICLES AND ESSAYS:

Justification in International Economic Law (in progress)

Policy Exceptionalism (in progress) (with Kathleen Claussen & J. Benton Heath) (in progress)

The Elastic Corporate Form in International Law, 62 VA. J. INT'L L. ____ (forthcoming 2022)

The New International Law of Contracts, Review Essay, EUR. J. INT'L L. ____ (forthcoming 2022)

Reforming Shareholder Claims in ISDS: Critique and Policy Options, J INTL DISP. RES. ____ (forthcoming 2021) (with Kathleen Claussen, Jaemin Lee, & Giorgio Zarra)

The Perils of Pandemic Exceptionalism, Essay, 114 AM. J. INT'L L. 627 (2020) (with Kathleen Claussen & J. Benton Heath) (peer review)

Parsing and Managing Inconsistency in Investor-State Dispute Settlement, 20 J. WORLD INVEST. & TRADE 336 (2020) (with Chester Brown & Federico Ortino) (peer review)

The Private Law Critique of International Investment Law, 113 AM. J. INT'L L. 1 (2019) (peer review)

- Awarded the 2019 Francis Deák Prize for an outstanding article published in the *American Journal of International Law* by a younger author
- Cited in *Global Telecom Holdings v. Canada*, ICSID Case No. ARB/16/16, Award (2020)

The Logic of Contract in the World of Investment Treaties, 58 WM. & MARY L. REV. 351 (2016)

Corporations as Lawmakers, 56 HARV. INT'L L.J. 229 (2015)

The Margin of Appreciation in International Investment Law, 54 VA. J. INT'L L. 545 (2014)

- Quoted favorably in *Antaris v. Czech Republic*, PCA Case No. 2014-1, Dissenting Opinion of Gary Born (2018)
- Cited in *Philip Morris v. Uruguay*, ICSID Case No. ARB/10/7, Concurring & Dissenting Opinion of Gary Born (2016)
- Cited in *Colombia Const. Ct.*, Dec. C-157/16, Separate Opinion of Alejandro Linares Cantillo, n. 221 (2016)

Treaty Interpretation and Constitutional Transformation: Informal Change in International Organizations, 38 YALE J. INT'L L. 289 (2013)

- Cited in International Law Commission (ILC), Draft Conclusions on Subsequent Agreements and Subsequent Practice in Relation to the Interpretation of Treaties, ILC Rep., 70th Sess., U.N. Doc. A/73/10 (2018), at n. 554

Constitutionality and Constitutionalism Beyond the State: Two Perspectives on the Material Constitution of the United Nations, 10 INT'L J. CONST. L. (I•CON) 627 (2012) (peer review)

Constitutional Transformation in the ECtHR: Strasbourg's Expansive Recourse to External Rules of International Law, 37 BROOK. J. INT'L L. 348 (2012)

Subsequent Practice and Evolutive Interpretation: Techniques of Treaty Interpretation over Time and Their Diverse Consequences, 9 LAW & PRAC. INT'L CTS. & TRIBS. 443 (2010) (peer review)

- Cited in *Maloney v. The Queen*, High Court of Australia, [2013] HCA 28, at n. 29
- Cited in ILC, Draft Conclusions on Subsequent Agreements and Subsequent Practice in Relation to the Interpretation of Treaties, ILC Rep., 70th Sess., U.N. Doc. A/73/10 (2018) n. 346
- Cited in CISG Advisory Council, CISG-AC Opinion No. 14, "Interest Under Article 78 CISG," 18th mtg (2013)

BOOKS:

THE PRIVATE LAW OF INVESTMENT TREATIES (Oxford University Press: projected 2022)

THE ESSENTIAL GATT (with Joseph Weiler) (in progress)

INTERNATIONAL INTERVENTION IN DOMESTIC CONSTITUTION MAKING (with Andrew Arato) (Cambridge University Press: projected 2023)

INTERNATIONAL & REGIONAL TRADE LAW: THE LAW OF THE WORLD TRADE ORGANIZATION (with Joseph Weiler, Sungjoon Cho & Isabel Feichtner) at <http://bit.ly/WTOteachingmaterials> (2017) (e-casebook)

BOOK CHAPTERS:

VCLT Article 31: General Rule of Interpretation, in GENERAL INTERNATIONAL LAW IN INTERNATIONAL INVESTMENT LAW – A COMMENTARY, Andreas Kulick & Michael Waibel, eds. (in progress).

Two Moralities of Consistency, in INVESTMENT PROTECTION STANDARDS AND THE RULE OF LAW, Stephan Schill & August Reinisch, eds. (Oxford University Press: forthcoming, 2021)

Revisiting the Margin of Appreciation in Investor-State Dispute Settlement, in INTERNATIONAL LAW AND THE MARGIN OF APPRECIATION, Mads Andenas & Giuseppe Bianco, eds. (Routledge: forthcoming)

Deference to the Executive, in CONVERGING APPROACHES? DOMESTIC COURTS AND THE INTERPRETATION OF INTERNATIONAL LAW, Georg Nolte & Helmut Aust, eds. (Oxford University Press: 2016)

Accounting for Difference in Treaty Interpretation over Time, in INTERPRETATION IN INTERNATIONAL LAW, Andrea Bianchi, Daniel Peat, & Matthew Windsor, eds. (Oxford University Press: 2015)

WHITE PAPERS AND REVIEWS:

[“Reforming Shareholder Claims in ISDS,”](#) *Academic Forum on ISDS Concept Paper 2019/9* (with Kathleen Claussen, Jaemin Lee, & Giovanni Zarra)

[“Lack of Consistency and Coherence in the Interpretation of Legal Issues,”](#) *Academic Forum on ISDS Concept Paper 2019/3* (with Yas Banifatemi, Chester Brown, Diane Desierto, Fabien Gelin, Csongor Nagy, & Federico Ortino)

Book Review The Evolutionary Interpretation of Treaties: by Eirik Bjorge (2014), 85 BRIT. YBK. INT’L L. 174 (2015).

Book Review, Treaty Interpretation: by Richard Gardiner (2008), 43 NYU J. Int’l L 101 (2010)

SELECT ONLINE CONTRIBUTIONS:

International Economic Law and Policy Blog <ielp.worldtradelaw.net>

- [ISDS Reform: From the Forest to the Trees of an Appellate Mechanism](#) (Feb. 15, 2021)
- [ISDS Reform: Designing Permanent Institutions at Working Group III](#) (Jan. 26, 2020)
- [ISDS Reform: Working Group III Gets Down to Brass Tacks](#) (Oct. 21, 2019)
- [A Watershed Moment for ISDS Reform](#) (Nov. 4, 2018)

EJILTalk! Blog of the European Journal of International Law <ejiltalk.org>

- [Lack of Consistency and Coherence in the Interpretation of Legal Issues](#) (Apr. 5, 2019) (with Chester Brown & Federico Ortino)
- [Equivalence and Translation: Further Thoughts on IO Immunities in *Jam v. IFC*](#) (Mar. 11, 2019)
- [Subsequent Practice in the Whaling Case, and What the ICJ Implies About Treaty Interpretation in International Organizations](#) (Mar. 31, 2014).
- [A Preemptive Strike Against European Federalism: The Decision of the BVerfGE Concerning the Treaty of Lisbon](#) (Oct. 9, 2010)

OpinioJuris <opiniojuris.org>

- [Book Symposium: Accounting for Difference in Treaty Interpretation Over Time](#) (Apr. 8, 2015)
- [On the Eurozone Crisis and the German Federal Constitutional Court, Part 2](#) (Feb. 1, 2012)
- [On the Eurozone Crisis and the German Federal Constitutional Court](#) (Jan. 28, 2012)

SELECT PRESENTATIONS:

“Policy Exceptionalism”

- ASIL Research Forum, Midyear Meeting, University of Miami School of Law (November 2021)
- Cambridge International Law Conference (May 2021)

Presenter, Reform of Investor-State Dispute Resolution: Reflective Loss and Shareholder Claims, joint webinar, hosted by the UNCITRAL Secretariat, the OECD, and the ISDS Academic Forum (July 2020)

“The Elastic Corporate Form in International Law”

- Regulation and Coordination Workshop, Murphy Institute, Tulane School of Law (Apr. 2020)
- NYU Contract Law and Theory Colloquium, NYU School of Law (Feb. 2020)
- ASIL Int’l Economic Law Interest Group Biennial Conference, University of Miami (Feb. 2020)
- ILA (American Branch), International Law Weekend, Fordham Law School (Oct. 2019)

Invited Expert, 5th Annual OECD Investment Treaty Dialogue, *Reforming Shareholder Claims in ISDS*, Initiated by government delegates from the Republic of Korea, Costa Rica, and Australia (Oct. 2019).

“The Private Law Theory of International Investment Law”

- European Commission, Directorate-General Trade (DG-Trade), Brussels (Sep. 2019)
- Australian Government, Department of Foreign Affairs and Trade (DFAT) (Aug. 2019)
- Public Lecture, *US-Australia Dialogues on International Trade and Resource Governance Law*, University of New South Wales and United States Embassy in Canberra, (Aug. 2019)
- Temple University International Law Colloquium (Feb. 2019)
- Loyola University Chicago International Law Colloquium (April 2019)

“Resisting *Travaux* Talk: The Case for Excluding Parole Evidence in Treaty Interpretation,” Brooklyn Law School 10/10 (March 2019)

“An Internationalized Law of Contracts?” Faculty, ITA-ASIL Conference, *State Parties in Contract-Based Arbitration: The Theory and Practice of Public/Private Arbitration* (March 2019)

“Trade Policy / the Politics of Trade,” Dean’s Law and Policy Series, Brooklyn Law School (Oct. 2018)

“The Private Law Critique of International Investment Law”

- Joint North American Conference on Int’l Economic Law, McGill Faculty of Law (Sept. 2018)
- Society for International Economic Law, Biannual Conference (July 2018)
- St. John’s International Law Colloquium (Oct. 2017)
- ILA (American Branch), International Law Weekend, Fordham Law School (Oct. 2017)

“Against Informal Multilateralism,” Brooklyn Law School, Block Center Conference on *Nationalism, Regionalism, and Globalism: The Future of Economic Integration* (Nov. 2017)

“The Logic of Contract in the World of Investment Treaties,”

- ILA (American Branch), International Law Weekend, Fordham Law School (Oct. 2016)
- Georgetown International Law Colloquium, Georgetown Law Center (Feb. 2016)
- International Society of Public Law (ICON•S) Meeting, NYU School of Law, (July 2015)

“Corporations as Lawmakers,”

- Third Annual Junior Faculty Forum for International Law, NYU School of Law—Melbourne University—Nottingham University, Melbourne (July 2014)
- Forum on *Breaking Natural Resources Dependence*, Harvard Kennedy School, (Apr. 2014)
- Forum on *Development, FDI, & Investment Treaties*, Convened by the Republic of Ecuador, Inter-American Development Bank, Washington D.C. (Apr. 2014)

“Deference to the Executive,” Workshop on *Converging Approaches? Domestic Courts and the Interpretation of International Law*, Humboldt University, Berlin (Nov. 2013)

“The Margin of Appreciation in International Investment Law,”

- Conference on *The Future of the Margin of Appreciation in International Law*, PluriCourts & Centre Franco-Norvégien en sciences sociales et humaines, Paris (Feb. 2014)
- ASIL Research Forum, Midyear Meeting, NYU School of Law (Oct. 2013)
- ILA American Branch, International Law Weekend, Fordham Law School (Oct. 2013)

Invited Expert, *Subsequent Practice of the Parties: A Dynamic or a Static Means of Treaty Interpretation?*, Mission of the Federal Republic of Germany to the United Nations, New York (Nov. 2013)

“Treaty Interpretation and Constitutional Transformation: Informal Change in Int’l Organizations,”

- ICON•S, Inaugural Conference, European University Institute, Florence (June 2014)
- ILA British Branch, Spring Conference 2013, University of Oxford (Apr. 2013)
- ASIL Research Forum, Midyear Meeting, University of Georgia (Oct. 2012)
- ASIL-ESIL-Rechtskulturen Workshop, “Transatlantic Debates in International Legal Theory,” University of Cambridge (Sep. 2012)

“The Constitutional Transformation of International Organizations through Treaty Interpretation: The ECtHR’s Expansive Use of VCLT 31(3)(c),” ASIL Research Forum, UCLA (Nov. 2011)

SELECT CONFERENCES & WORKSHOPS, AS ORGANIZER:

Co-Chair, ITA–ASIL Conference, *Arbitration in Changed Circumstances*, Washington D.C. (May 2022)

Co-Chair, International Law Weekend, Annual Meeting of the International Law Association (ILA), American Branch (ABILA), Fordham Law School (Oct. 2020)

Co-Chair, ASIL International Economic Law Interest Virtual Book Talk Series (summer 2020)

Co-Chair, ASIL International Economic Law Biennial Conference, University of Miami (Feb. 2020)

Co-Chair, 9th Annual ASIL Mid-year Meeting (MYM) Research Forum, Brooklyn Law School (Nov. 2019)

Organizer, *The Remedial Function in International Economic Law*, ASIL Annual Meeting Panel (Mar. 2019)

Co-Organizer, Joint North American Conference on Int’l Economic Law, McGill Faculty of Law (Sept. 2018)

Organizer and moderator, *New Frontiers in Non-Discrimination Law: MFN and National Treatment Revisited*, ASIL Annual Meeting (April 2018)

Co-chair, 7th Annual ASIL MYM Research Forum, Washington University in St. Louis (Oct. 2017)

Organizer and co-host, Symposium on *Nationalism, Regionalism, and Globalism: The Future of Economic Integration*, Block Center, Brooklyn Law School (Nov. 2017)

Organizer, biannual *International Business Law Scholars' Roundtable* (w/ Robin Effron), Block Center, Brooklyn Law School (Oct., 2016, Nov. 2018, and Nov. 2020)

Organizer and co-chair, *Industry Associations*, Rutgers Law School, Newark (June, 2016) (w/ Sarah Dadush)

Organizer and moderator, *The Dis-organization of International IP*, ASIL Annual Meeting Panel (Mar. 2016)

Organizer, chair, and discussant, panel on *Corporate Planning in International Law: Tax Treaties, Investment Law, and Political Risk Insurance*, Harvard International Law Journal Symposium, (Feb. 2016)

PROFESSIONAL EXPERIENCE:

UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW (UNCITRAL), WG III (INVESTOR-STATE DISPUTE SETTLEMENT REFORM), 35TH – 39TH SESSIONS: New York, NY & Vienna, Austria
Delegate, PluriCourts (as Co-Chair of the Academic Forum on ISDS), 2021 – present

Delegate, American Society of International Law (ASIL) Observer Delegation, 2018 – 2021

Participated in discussions on identifying concerns relating to investor-state dispute settlement (ISDS), on the desirability of reform, and on charting pathways for reforming the resolution of investment disputes.

FRESHFIELDS BRUCKHAUS DERINGER: New York, NY

Associate, International Arbitration Group, 2012 – 2013

Advised sovereigns and multinational corporations in international commercial and investment arbitration, as well as public international organizations in matters relating to international responsibility.

MISSION OF PALAU TO THE UNITED NATIONS: New York, NY

Advisor, 2011 – 2012

Advised mission on public international law and procedure in international courts, as well as on requesting an advisory opinion from the International Court of Justice on state responsibility for carbon emissions.

EUROPEAN COURT OF HUMAN RIGHTS: Strasbourg, France

Study Visitor / Stagiaire, Research Division, 2010

U.N. INTERNATIONAL LAW COMMISSION: Geneva, Switzerland

Visiting Fellow, 2009 (with Georg Nolte, Chairman of Study Group on Treaties over Time)

PROFESSIONAL AFFILIATIONS AND SERVICE:

Journal Boards and Editorial Positions

- *American Journal of International Law*, Editor: International Decisions Section, 2020 – present
- *Hague Yearbook of International Law*, Editorial Board, 2015 – present
- *Jus Cogens*, Scientific Board, 2019 – present

American Society of International Law (ASIL)

- *Executive Council*, 2019 – 2022
- *Chair*, Book Awards Committee, 2021; *Member*, Book Awards Committee, 2020
- *Delegate*, ASIL Observer Delegation to UNCITRAL WG III (ISDS Reform), 2018 – present
- *Co-Chair*, 2019 ASIL Research Forum, Brooklyn Law School, New York
- *Co-Chair*, 2017 ASIL Research Forum, Washington University, St. Louis
- *Co-Chair*, ASIL Int'l Economic Law Interest Group, 2019 – 2021; *Vice-Chair*, 2017 – 2018
- *Co-Chair*, ASIL Int'l Organizations Interest Group, 2014 – 2016; *Vice-Chair*, 2013 – 2014

Academic Forum on Investor-State Dispute Settlement (ISDS)

- *Co-Chair of the Academic Forum, 2021 – present*
- *Elected Member, Steering Committee, 2021 – present*
- *Lead Editor, Special Issue on ISDS Reform, Journal of International Dispute Settlement, 2021*
- *Chair, Working Group on Shareholder Claims in ISDS*
- *Co-Chair, Standing Group on Reforms and Incentives*
- *Member, Working Group on Lack of Consistency and Coherence in Interpretation*

Institute for Transnational Arbitration (ITA)

- *Member, Academic Council, 2019 – present*

Junior International Law Scholars Association (JILSA)

- *Co-Chair, 2016 – 2018*
- *Member, 2014-2019*

International Law Association (ILA)

- *Member, Study Group on the Content and Evolution of the Rules of Interpretation*

International Society of Public Law (ICON•S)

INSTITUTIONAL SERVICE AND FACULTY GOVERNANCE:

Brooklyn Law School

- *Chair, Faculty Appointments Committee, 2020 – 2022; member, 2017 – 2020*
- *Faculty Advisor, Brooklyn Journal of International Law, 2016 – 2020*
- *Faculty Workshops Committee, 2016 – 2019*
- *Long Range Planning Committee, 2018 – 2020*

Dennis J. Block Center for the Study of International Business Law, Brooklyn Law School

- *Co-Director, 2017 – present*
- *Assistant Director, 2015 – 2017*

NATIONALITIES:

United States of America; Hungary