



# Consenting to International Law

A Conference at the Collège de France, Paris

23-24 June 2022

COLLÈGE  
DE FRANCE

—1530—

CHAIRE DROIT  
INTERNATIONAL  
DES INSTITUTIONS



23-24 June 2022

Amphithéâtre Maurice Halbwachs

# Consenting to International Law

A Conference at the Collège de France, Paris

*Le colloque se tiendra en anglais (à l'exception de quelques interventions en français), sans traduction simultanée. Il bénéficie du soutien financier de la Fondation du Collège de France.*

Contact et informations : Mme Sylvie Sportouch  
sylvie.sportouch@college-de-france.fr

## Speakers:

Samantha Besson (Collège de France) ; Laurence Boisson de Chazournes (Université de Genève) ; Fernando Lusa Bordin (University of Cambridge) ; Catherine Brölmann (University of Amsterdam) ; Jutta Brunnée (University of Toronto Law School) ; Monique Chemillier-Gendreau (Université Paris-Cité) ; Duncan Hollis (Temple Law School, Philadelphia) ; David Lefkowitz (University of Richmond) ; José Luis Martí (University of Pompeu Fabra, Barcelona) ; Alain Pellet (Université Paris-Nanterre) ; Christian Tams (University of Glasgow) ; Fuad Zarbiyev (Institut des hautes études internationales et du développement, Genève).

## Commentators:

Pierre d'Argent (Université de Louvain) ; Jean d'Aspremont (École de droit de Sciences Po, Paris) ; Paolo Palchetti (Université Paris 1 Panthéon-Sorbonne) ; Yannick Radi (Université de Louvain).

International treaties, and more broadly international legal sources in general are still predominantly – and despite important normative as much as descriptive critiques – understood as being “based” on (State) consent. To that extent, international law differs from domestic law where consent to the law has long been considered peripheral or irrelevant to lawmaking, whether as a criterion of validity or as a ground of legitimacy.

This is, of course, an old chestnut in international legal theory, but one that still puzzles most theorists. In addition to a renewed historical and philosophical interest in (State) consent to international law, including from a democratic theory perspective, the question is also still highly relevant in practice. Thus, the notions of consent and agreement remain difficult to grasp in international treaty law, not to mention their role in the formation of customary international law. Moreover, and unexpectedly given some of the original arguments to the contrary, the question of consent has recently resurfaced, with other private law analogies, in debates about the normativity of international soft law and other forms of transnational regulation, raising issues as to what consent does and should amount to in those new normative practices. Last but not least, it has become increasingly common to refer to the “will” of international organizations, including with respect to the law adopted by and within them. Those discussions are taking place in all regimes of international law, but especially in international human rights law, international environmental law, international investment law and international humanitarian law.

The various specialists of international law and legal theory invited to contribute in the conference have been asked to explore those issues and many others. The conference will address the notions, types and roles of consent in contemporary international law and its relationship to related notions (such as “will”, “agreement” or “acceptance”, “participation”, “veto” in particular), as well as its objects (sources such as treaties, custom and soft law, regulation, but also jurisdiction) and subjects (States(peoples), of course, but also international organizations and, possibly, civil society institutions such as non-governmental organizations and transnational corporations). More generally, the proposed exploration of the role of consent to international law should also shed light on the increasingly vexed topics of the normativity and authority of what we refer to as international “law” today.

## 23 JUNE 2022

Collège de France — Amph. Maurice Halbwachs

---

- 09.00-09.30 *Consenting to International Law, An Introduction*  
Prof. Samantha Besson, Collège de France
- Panel 1: Notions, Types and Roles of Consent**
- 09.30-10.00 *Consenting is not Willing*  
Prof. Alain Pellet, Université Paris-Nanterre
- 10.00-10.30 *State Consent and the Legitimacy of International Law*  
Prof. David Lefkowitz, University of Richmond
- 10.30-11.00 Break
- 11.00-11.30 *Controlling Consent: Insights from Binding Dispute Settlement*  
Prof. Christian Tams, University of Glasgow
- 11.30-12.00 *Institutionalisation and the Disaggregation of Consent*  
Prof. Catherine Brölmann, University of Amsterdam
- 12.00-12.15 *Comment*  
Prof. Jean d'Aspremont, Ecole de droit de Sciences Po, Paris
- 12.15-13.15 *Panel Discussion* — All panelists
- Panel 2: Objects of Consent**
- 14.30-15.00 *Do International Agreements Have a Consent Problem?*  
Prof. Duncan Hollis, Temple Law School, Philadelphia
- 15.00-15.30 *Consent to the Normative Content of Treaties: From Consent to Rules to Consent to an Argumentative Regime*  
Prof. Fuad Zarbiyev, Institut des hautes études internationales et du développement, Genève
- 15.30-16.00 Break
- 16.00-16.30 *Consent in the Evolving Climate Regime*  
Prof. Jutta Brunnée, University of Toronto Law School
- 16.30-17.00 *Variations around the Notion of Consent in International Investment Arbitration*  
Prof. Laurence Boisson de Chazournes, Université de Genève
- 17.00-17.15 *Comment*  
Prof. Pierre d'Argent, Université de Louvain
- 17.15-18.15 *Panel Discussion* — All panelists

## 24 JUNE 2022

Collège de France — Amph. Maurice Halbwachs

---

- Panel 3: Subjects of Consent**
- 10.00-10.30 *The Consent of International Organizations in International Law-Making*  
Dr Fernando Lusa Bordin, University of Cambridge
- 10.30-11.00 *Le consentement comme garantie de la légitimité démocratique du droit international*  
Prof. Monique Chemillier-Gendreau, Université Paris-Cité
- 11.00-11.30 Break
- 11.30-12.00 *From Equal State Consent to Equal Public Participation – Multiple Representation and Sovereignty in International Organizations*  
Prof. Samantha Besson, Collège de France  
& Prof. José Luis Martí, Pompeu Fabra University, Barcelona
- 12.00-12.15 *Comment*  
Prof. Paolo Palchetti, Université Paris 1 Panthéon-Sorbonne
- 12.15-13.15 *Panel Discussion*  
All panelists
- Panel 4 : General Conclusions and Discussion**
- 14.30-15.00 *General Conclusions*  
Prof. Yannick Radi, Université de Louvain
- 15.00-17.00 *General Discussion* — All panelists
- 17.00-17.15 *Concluding Words*  
Prof. Samantha Besson, Collège de France

# Consenting to International Law

23-24 June 2022

COLLÈGE  
DE FRANCE

— 1530 —

**Thomas Römer**

Administrateur du Collège de France  
11, place Marcellin-Berthelot, 75005 Paris  
[www.college-de-france.fr](http://www.college-de-france.fr)

Année  
académique  
2021/2022