

ESIL INTEREST GROUP

CRITICAL APPROACHES TO INTERNATIONAL LAW

INTRODUCTORY REPORT

I. JUSTIFICATION AND PURPOSE

1. Aims

This proposed Interest Group (IG) aims to create an inclusive space that centers alternative and marginalized voices and experiences at the heart of research and praxis of international law.

International law is often presented as a neutral framework arising from consensual state interactions. Yet, such consensus tends to obscure the rival power dynamics, historical biases, and emerging new geopolitical tensions embedded within international law. To date, dominant scholarship and methodologies have accounted for the socio-political, cultural, and historical underpinnings of international legal norms in a way that often privileges Western paradigms, excluding alternative worldviews and normative orders. For instance, Indigenous legal traditions and their approaches to land and governance are rarely acknowledged or integrated into dominant legal frameworks, let alone be recognized as forms of law in themselves. In response, international legal research informed by critical approaches encourages academics, practitioners, and students to ask deeper questions about the structures of the discipline itself: *Why is the law the way it is? Whose interests does it serve? Who is excluded?* It invites people to carefully consider their positionality and acknowledge that knowledge production and dissemination operate within profound material and social inequalities. By persistently posing fundamental questions around the universality, contingency, and objectivity of international law – critical approaches refuse to overlook or normalize international law’s inherent ambiguities and indeterminacies.

Many of today’s crises implicate the role of international law in the colonial endeavor and the multiple ways in which ties of subordination and dependency are reflected in the post-colonial world. Overall, critical approaches prioritize the examination of underlying power dynamics, systemic biases, and the contexts in which international law operates. In this sense, critical approaches are also an invitation to embrace ethical jurisography in international legal scholarship.

To that end, the Critical Approaches to International Law Interest Group aims to specifically:

(1) Create a space to identify, examine, and discuss the silences and marginalization in the field. Drawing from theories such as feminism, Third World Approaches to International Law (TWAIL), political economy, Marxism, anarchism, queer theory, and decolonial and anti-colonial thoughts, among others, this IG would foreground such critiques, enabling an open, inclusive, and rigorous space for reflection, and push the boundaries of research and practice of international law.

(2) Create a space for community building, exchange of ideas, and solidarity in cooperation with the other Interest Groups at ESIL. There are already existing synergies between the proposed IG on critical perspectives and many others including, IGs on Feminism, history, social sciences, human rights, and the environment.

(3) Contribute to intellectual diversity within the ESIL. The creation of this IG would bear great institutional importance for ESIL through the formalization of the role of critical perspectives in shaping the future of international law, as well as inspire early career critical scholars to engage with the work of ESIL. Moreover, it would attract scholars from the Global South to engage with the work of the Society.

2. Themes

(1) International Law and Critical Pedagogy. Integrating critical approaches into research and teaching of international law is vital. It allows us to understand how knowledge in and about the discipline is created and how we can be more conscious and inclusive about these processes. Critical pedagogical interventions allow us to unpack international law's role in world-making and the creation of hegemonic power, where imperial-capitalist legacies are not simply a thing of the past but permeate through the structures of the discipline and its many forms of practice. The need to do this acquires a different kind of urgency in light of the multiple crises we are confronted with today - wars, climate change, ecological degradation, and rising inequality, among others. Critical pedagogies in/of international law can provide the necessary framework to understand it as a force that governs every aspect of our lives against a distinct legalistic discipline and enterprise.

(2) Climate Change, Environment and International Law. Environmental concerns are increasingly front and centre in the discipline of international law. From the Advisory Opinion on climate change at the International Court of Justice (ICJ) to the International Law Commission's (ILC) study group on sea-level rise, climate and environmental issues are now addressed by general international law and nearly every area of the discipline. But as critical international legal scholarship has stressed, international law plays a distinct role in structuring and reproducing environmental harm and injustice. The development of international law around and in response

to environment issues and climate change thus requires thoughtful and critical engagement if it is to adequately facilitate an effective and more equitable response to the environmental crisis. The interest group will explore how international law shapes the distribution of resources, waste, extraction and environmental harm across North-South dimensions. It will likewise provide critical guidance on how general international law can be applied and developed to enable environmental justice and foreground alternative and sustainable relations with the environment.

(3) Critical Methodologies in International Law and their Relevance for Doctrinal Legal Research. The term ‘research’ often evokes a fraught legacy for colonized communities, where it is seen as inseparable from the history of European imperialism (see, Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples*). Academic inquiry, particularly in its institutionalized forms, has frequently served as a tool of domination, reinforcing structures of power and erasing alternative ways of knowing. The workshop on critical methodologies in international law will focus, among others, on how colonial ideologies have been embedded in academic disciplines as ‘regimes of truth’. Doctrinal approaches in international law often rely on assumed universalisms and established canons that obscure the colonial underpinnings of the field. By interrogating the methodologies through which legal doctrines are constructed, participants can unearth the implicit biases and power dynamics that shape international legal norms. Critical methodologies offer a pathway to not only question these entrenched structures but to reimagine international law in ways that are more equitable, inclusive, and reflective of diverse legal traditions and experiences. Through such approaches, the practice of legal research can become a site of resistance and transformation, challenging the legacies of imperialism and contributing to a more just global order.

(4) Money, International law and Imperialism. Exploring how regimes of international debt and finance perpetuate colonial power dynamics in the contemporary economic order provides another critical entry point for the interest group. Sovereign debt and international monetary systems are not neutral instruments of economic governance; rather, they are key sites of political struggle. These struggles unveil new avenues for understanding the constraints on state capacity, the limitations of economic self-determination, and the ongoing processes of capital accumulation through the subordination and dependency of the Global South. A critical reflection on the role of money and finance in international law also highlights how Empire is perpetuated through scientific expertise, financial institutions, and international private capital, shaping key aspects of the relationship between the state and issues like climate, poverty, inequality, and inclusion.

II. OUTLINE OF ENVISAGED ACTIVITIES

The proposed IG would undertake the following activities:

Year 1 – 2025

(1) Pre-conference Workshops and/or Agora at Annual Conference in Berlin 2025 & Official Launch of IG. The forthcoming conference in Berlin (“Restructuring International Law”) is already thematically connected with the range of topics that the IG aims to address. If the IG is approved shortly, we will aim to submit a proposal for an **Agora**. The potential topic could be: “Critical Methodologies for Reconstructing International Law: Rethinking Legitimacy, Authority, and Inclusion”. Yet, given that the deadline might pass by the time of approval, we will focus on organizing the **pre-conference workshop**, under the aforementioned tentative title. This will be carefully curated so that it brings together a group of papers focused on the various ways of reconstructing international law using critical lenses. The pre-conference workshop would undoubtedly be productive in the context of this conference. This pre-conference workshop invites participants to explore the role of critical methodologies in shaping a forward-looking vision for international law. As the conference theme emphasizes the need to “reconstruct” international law, this workshop will examine how critical approaches – by drawing on insights from Critical Legal Studies, TWAIL, feminist legal theory, posthuman and critical environmental legal theory, Marxism and anarchism – challenge entrenched assumptions and offer tools for building a more inclusive and equitable international legal order.

The workshop will foreground questions of authority and legitimacy, asking how international law can, if at all, shed its colonial and imperial legacies to better reflect the diversity of global experiences and aspirations. It will also probe the limits of doctrinal and institutional reconstruction, examining whether international law’s foundational structures and methodologies are fit for the ambitious task of addressing complex crises ranging from climate change to global inequality.

We would be interested in receiving submissions on the following questions: How can the reconstruction of international law avoid replicating outdated progress narratives? What role do critical methodologies play in ensuring that reconstruction is transformative? How can these approaches help international law move beyond crisis narratives toward a genuinely inclusive future?

(2) Online Reading Group I: Under the theme “**Critical Approaches**” and in line with the launch of the IG, this inaugural reading group will be helpful to bring together international lawyers working on, or interested in learning more about, foundational and new texts that have

influenced the field of ‘critical approaches to international law’. The reading group will be led by the coordinating committee. We will select texts from established scholars, but also from rising stars.

(3) Author-meets-reader Session. This session will focus on one reading and invite the author for Q&A. We will aim to host three sessions: a session during the Fall (between Sept to Dec); a session during Winter (between Jan and March); and a session during Spring/Summer (May).

(4) An Annual Lecture on the overall theme of “Critical International Law: What is to be Done?”

(5) Online Event/s on the recent and upcoming Advisory Opinions from the ICJ (Climate Change, Palestine, and Right to Strike). They present a good moment to discuss these highly political and tremendously important legal issues from critical perspectives.

Year 2 – 2026

(1) ESIL Research Forum 2026. As the date, place, and theme of the research forum in 2026 are yet unknown, we believe that irrespective of the location, we would be able to organize an online workshop for early career researchers.

(2) Online Reading Group II: Under the theme “**Critical Methodologies**”, this second reading group aims to continue a conversation on what makes ‘critical’ approaches distinctive, and their contribution to enrich the field. To do that, this reading group will select texts renowned for putting forward creative methodologies to examine and understanding the role of international law. We will select texts from established scholars, but we will also take this as an opportunity to support the work from rising stars in our field. The reading group will be led by the coordinating committee.

(3) Author-meets-reader Session. In Year 2, we will continue to cultivate community at ESIL by giving members the opportunity to engage and meet authors. As in Year 1, we will select one reading and invite the author for Q&A. We will aim to host three sessions: a session during the Fall (between Sept to Dec); a session during Winter (between Jan and March); and a session during Spring/Summer (May).

4) An Annual Lecture on the overall theme of “Critical Methodologies: Can International Law be Re-imagined?”

(5) Online Event/s on ICJ Advisory Opinions from delivered between 2025-2026.

III. COORDINATING COMMITTEE

The proposed coordinating committee will consist of:

Dr. Kanad Bagchi (University of Amsterdam)

Dr. Julia Emtseva (European University Institute)

Dr. Tim Lindgren (University of Amsterdam)

Dr. Rohini Sen (Jindal Global Law School)

Dr. Valeria Vázquez Guevara (University of Hong Kong)