



Subjects of international law

Public International Law: Alternative Seminar



The Initial Paradigm

- Only state is subject of international law



Evolution

- International organization (20th century)



Individual

- Subject v beneficiary
- Direct versus derivate rights theories



The content of the concept of individual

- Natural Persons
- Artificial persons (HR, investment protection)
- Tertium non datur?
- The Reparation of Injuries case before the ICJ (1949):
 - No exhaustive list of subjects of international law



The relationship between international and national subjectivity

- ▶ Subjectivity versus capacity?
- ▶ Both natural and artificial persons were first subjects of a domestic law
- ▶ Is there any link between national and international subjectivity?



Diplomatic protection

- ▶ Natural person – protected by the state of nationality (The Nottebohm case)
- ▶ Artificial person – protected by the state of registration (The Barcelona Traction Case)
- ▶ Both persons embedded in a national law



The specific problem of *nasciturus*

- ▶ Is nasciturs subject of international rights?
- ▶ What are the consequences of positive or negative answer?
- ▶ What can we gather from Vo versus France?



The specific problem of partnership

- ▶ Should a partnership (and its functional equivalents) be considered subjects of international law?
- ▶ Should a partnership be considered to meet criteria of “juridical person” under an investment treaty?
- ▶ What is the consequence of positive or negative answer to this question for the jurisdiction of the investment tribunal?



It depends...

- ▶ Dualism versus monism
- ▶ “Autonomous” versus “derived” subjectivity
- ▶ Interpretation of the treaty conferring rights on an entity is important (VCLT)



Amici curiae

- Involved in international dispute procedures more often than ever
- Why is it so?
- What is their role?



My view on amici

- ▶ States and individuals (like investors or petitioners of the ECtHR) seek their own interest in litigation
- ▶ Thus some interests are under-represented (e.g. of a tribe in an arbitration between the US and investor)
- ▶ Amici may provide an expert insight into the matter (medical, religious, working conditions etc.)
- ▶ A disadvantage: Their participation may extend the time of the litigation



Beyond...

- Animals
- Rivers
- Robots



➤ Thank you.