

Three layers of international law and the law of neutrality

Urs Saxer¹

Summary

In international law, three layers can be analytically distinguished, which also reflect historical developments: international law as the law of coexistence, cooperation, and integration. Neutrality is a product of the classical law of coexistence, when war was permissible. With the codification of the principles of coexistence in the UN Charter, in particular the prohibition to use force in the relation between states, and the obligations to cooperate within the framework of the collective security system as stipulated in the Charter, the basic prerequisites for the law of neutrality ceased to apply. It only applied in a modified form if the collective security system did not function. In addition, there is no longer any place for the law of neutrality in international law as a law of integration, insofar as integration encompasses the communitarization of security and defense. The prerequisites for a universally applicable law of neutrality have long since ceased to exist.

1. Levels of applicability of international law

Historically, the law of coexistence represents the traditional, long-standing exclusive level of application of international law governing relations between sovereign states.^{2 3} More than a hundred years ago, with the institutionalization of the system of states in the first world organization, the League of Nations, this level was supplemented by *international law as the law of cooperation* between states. Although the states are still sovereign,

1 The author would like to thank Olga Lieder, Dipl.-Jur., for her valuable research work.

2 See also *Jamal El-Zein*, Das Ende des Neutralitätsrechts, Kölner Schriften zum Friedenssicherungsrecht Volume 26, Diss. Cologne 2024, pp. 43 with further references on the origins of neutrality.

3 *Fritz Münch*, Die Koexistenz im Völkerrecht, in: Vereinte Nationen, issue 6/1964, p. 207 ff.

they have since then moved away from the idea of more or less absolute autonomy protected by sovereignty in favor of international cooperation through a variety of international ties among themselves in treaties and within the framework of international organizations.⁴ This second level has, in a sense, superimposed a new dimension on the level of coexistence. Apart from an interruption during the Second World War, it has remained dominant to this day. This is not changed by relapses into disruptive unilateralism, such as Russia's war in Ukraine, the escapades of an unpredictable US President Donald Trump, who ignores manifold existing obligations under international law, and the military actions of Israel as a regional power in Gaza and Syria, Lebanon and Iran. This is because the network of global interdependencies is so strong and diverse and permeates all areas of life and politics that states cannot cope with it on their own, given the increasingly limited scope and thus effectiveness of sovereign decisions due to interdependence. They have no choice but to jointly manage and regulate these interdependencies at the international level, preferably within an institutionalized framework.⁵ One consequence of this is that in some states, such as Switzerland, the official publication of international legal obligations is equivalent in scope to domestic law.

The cooperation-related dimension of international law is undoubtedly the most important in terms of international law and realpolitik. It goes hand in hand with the dominance of international treaties as the main source of law in the international system,⁶ supplemented by the decision-making practices of countless intergovernmental organizations and bodies as the institutionalized embodiment of global and regional cooperation in a wide variety of policy and subject areas. This is joined by another, more recent level of application of international law, namely its function as *inte-*

4 Conceptualized, partly under the term transnational law, Wolfgang Friedmann, *The Changing Structure of International Law*, Calcutta 1960, p. 60 ff.; Andreas v. Arnould, *Völkerrecht*, 5th edition 2023, §1 Rn. 3; Anne Peters/Anna Petrig, *Völkerrecht*, 6th edition, Geneva 2023, Chapter 1, margin note 30; on the duty of cooperation between states, see also Evelyn Schmid, *Stillsitzen und Wegschauen ist nicht mehr zeitgemäß*, in: NZZ No. 143 of June 24, 2025, p. 18; on supplementing the right of neutrality with the principle of solidarity, see Robert Nef, *Die bewaffnete Neutralität ist ein Friedensangebot*, in: Schweizer Monat: die Autorenzeitschrift für Politik, Wirtschaft und Kultur Volume 102, 2022, p. 60.

5 Andreas v. Arnould, note 4), § 1 Rn 3.

6 Anne Peters/Anna Petrig, (note 4), Chapter 6, margin note 1.

gration law.⁷ This manifests itself both within and outside an institutionalized framework, with the institutionalized framework being the rule. This integrative function is particularly evident in supranational organizations, above all the EU, which have their basis in international treaties but create an integrative order of their own right, in which sovereignty is strongly curtailed in favor of joint regulation and administration of many policy areas.⁸ This idea of communitarization, i.e. ultimately the supranational collective assumption of direct responsibility by states within an institutionalized framework, is also evident in some of the Security Council's resolutions, particularly where it directly intervenes without the usual implementation by states to regulate specific areas and sanction private individuals and/or impose obligations on them.⁹ WTO law also has an inherent tendency toward increasing integration. This is reflected in the efforts to establish further trade policy regulations,¹⁰ comparable to the process of European integration in its early stages. After all, anyone who wants to regulate the economy will be compelled to view a wide range of issues and policy areas as interconnected and therefore in need of regulation. The function of international law as integration law is also evident in concepts such as the

7 *Stephan Breitenmoser*, Föderalismus und Internationalisierung, in: *Verfassungsrecht der Schweiz*, Volume I: Grundlagen, Demokratie, Föderalismus, in: Oliver Diggelmann/Maya Hertig Randall/Benjamin Schindler (eds.), *Verfassungsrecht der Schweiz*, Zurich 2020, p. 639 ff.

8 *Rudolf Streinz*, *Europarecht*, 12th edition, Heidelberg 2023. On the restriction of sovereignty as a result of international interdependence *Tobias Jaag/Julia Hänni*, „Europarecht, Die europäischen Institutionen aus schweizerischer Sicht, Geneva: Schulthess, 5th edition 2022, margin note 4320; on Switzerland's understanding of sovereignty vis-à-vis the EU, *Thomas Cottier*, Kosten des konservativen schweizerischen Souveränitätsverständnisses, in: Thomas Cottier/André Holenstein (eds.), *Die Souveränität der Schweiz in Europa. Mythen, Realitäten und Wandel*, Bern 2021, p. 211 ff.

9 On economic sanctions against private individuals, see *Samuele Scarpelli*, Wirtschaftssanktionen gegen private Personen. Verfahren und Rechtsschutz in der Europäischen Union und in der Schweiz unter besonderer Berücksichtigung der Rolle und Befugnisse des UN-Sicherheitsrates im Rahmen der Terrorismusbekämpfung, Zurich/St. Gallen 2015, esp. pp. 9-43.

10 *Gilbert Gornig*, *Völkerrecht*], Munich 2023, § 130 Rn. 6; *Paul Weismann*, Jüngere Entwicklungen im WTO-Recht, *RIW* 2021, p. 549 ff; *Richard Senti*, Zukunft der WTO, *EuZ* 2020, p. 56 ff.; *Nicolas F. Diebold/Anne-Cathrine Tanner*, WTO-Recht und regionale Integration, in: *SRIEL* 2019, pp. 173-201; *Peter Hilpold*, *The EU in the GATT/WTO System*, Facultas: Vienna 2019.

Common Heritage of Mankind,¹¹ the regulation of deep-sea mining¹², and the status regulations for the Moon,¹³ outer space¹⁴, and the polar regions.¹⁵ What they have in common is that national sovereignty plays a subordinate role and that international regulation is as direct as possible, not unlike a state, but – apart from supranational organizations – without the corresponding structural and institutional prerequisites. Thus, the integration layer at least partially overlaps with the coexistence and cooperation layer and selectively complements it.

The distinction described between different layers of international law is based on an understanding of historical developments as an increase in interstate interdependence, primarily for economic and technical reasons, and reflects varying degrees of breadth and depth in the regulation of intergovernmental and genuine international relations. The different layers correspond to different functions of international law, which in turn reflect developments in its socio-political foundation. Against this background, these developments appear to be a logical, even necessary process with its own inherent rationality: beginning as a law of coexistence, international law has increasingly developed into a law of cooperation and is now also becoming, in part, a law of integration. These layers coexist alongside and with each other, with shifts in meaning occurring between them and newer layers, partially transforming the older ones. This is embedded in the much-discussed *process of constitutionalization in international law and of international law itself*,¹⁶ i.e., the emerging constitutional structures

11 *Andreas v. Arnauld*, Völkerrecht, 5th edition, Heidelberg 2023, margin note 807; *Edwin Egede*, Common Heritage of Mankind, Oxford Bibliographies in International Law 2014.

12 *Dirk Petersen*, Der Tiefseebau: Eine umweltvölkerrechtliche Baustelle. Eine Einführung in ein junges Rechtsgebiet, in: ZJS 4/2019, pp. 257. This is regulated in Part XI, i.e. Arts 133 et seq. and in particular 150 et seq. of the UN Convention on the Law of the Sea 1994 and in the Agreement for Implementation of Part XI of the Convention on the Law of the Sea.

13 *Alexander Proelß* in *Alexander Proelß* (ed.), Völkerrecht, 9th edition, Berlin/Boston 2024, p. 565.

14 *Knut Ipsen*, Völkerrecht, 8th edition, Munich, 2024, § 47 margin note 1; *Alexander Proelß*, in *Alexander Proelß* (note 13), p. 565; on space as a "res communis," *Marcel Kau*, in: *Wolfgang Graf Vitzthum/Alexander Proelß* (eds.), Völkerrecht, 8th edition, Berlin/Boston 2019, p. 241.

15 *Jörn A. Kämmerer*, in *Alexander Proelß* (ed.), (note 13), p. 14.

16 Instead of many *Thomas Kleinlein*, Konstitutionalisierung im Völkerrecht - Konstruktion und Elemente einer idealistischen Völkerrechtslehre, Beiträge zum ausländisches öffentlichen Recht und Völkerrecht, Volume 231, Heidelberg 2012; *Anne Peters*, Kon-

of the international system in terms of actors, structures, institutions, processes, values, and policies, caused by rapidly intensifying and, in some cases, structure-forming interdependencies. In view of recent geopolitical developments, there are fears of a setback for constitutionalization and, associated with this, a relapse into a mere coexistence order.¹⁷ Such fears overlook the norm- and structure-forming character of millions of daily transnational interactions between actors at all levels, which certainly cannot be addressed at the coexistence level alone, but must lead to strong cooperation and increasing constitutionalization.

The layers described are ideal types, and accordingly there are mixed forms. However, they form an analytical tool that can also be used to grasp the essence and concrete influence of neutrality as a complex of norms under international law more adequately, both in its historical and temporal dimensions, than an analysis based solely on positive neutrality law and state practice. This gain in depth is linked to the hope that the transformations of the concept and the orientation of the relevant actors towards action can be revealed in a concept of neutrality characterized by a specific layer. A further hope is that this approach will allow extrapolations as to the future of neutrality in view of the trends determining the development of the layers of the international legal order.

stitutionalismus als globale Errungenschaft, in: Jost Delbrück/Ursula Heinz/Kerstin Odendahl/Nele Matz-Lück/Andreas von Arnould (eds.), *Aus Kiel in die Welt, Kiel's Contribution to International Law, Festschrift on the 100th Anniversary of the Walther Schücking Institute for International Law*, Berlin 2014, pp. 127-138; Daniela Kühne, *Materielle Konstitutionalisierung im Völkerrecht - Zum Entstehen einer internationalen Verfassungsordnung*, Zurich 2014.

17 See Anne Peters, *International Law and its Scholarship in the Time of Monsters*, Max Planck Research Paper Series 2025-05, May 6, 2025, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5242721.

2. Neutrality and the coexistence layer of international law

a) Beginnings: Grotius and neutrality¹⁸

The title of the 17th chapter of the third book of Hugo Grotius's epoch-making work *De Jure Belli ac Pacis* (1625) is translated into English as "On Neutrals in War".¹⁹ The section begins with the important statement that there is no right to wage war against those who are not involved in the war.²⁰ Non-participation in a war must be accepted. When troops march through the territory of a neutral country, they must behave in a disciplined manner. They must pay for food and accommodation, and looting and raids are strictly prohibited. However, those not involved in the war also have duties, namely "not to do anything that could strengthen the representative of the bad cause or hinder the enterprise of those who are fighting the just cause."²¹ In cases of doubt, neutrality requires equal treatment, e.g., in granting the passage of troops or the maintenance of troops. Using historical examples from antiquity, Grotius shows that allowing the recruitment of mercenaries or providing support with money and manpower is not compatible with the status of a non-belligerent. The latter best secures its status by concluding treaties with the belligerents in which its status as a non-participant in the war is recognized.

Neutrality is therefore a concept that dates back to antiquity. It reflects an evident option as to the course of action in disputes between third parties, namely that of non-participation. This option is a very general one in social situations, e.g., in interpersonal conflicts, and in political situations

18 For a detailed discussion of the origins of the doctrine of neutrality, see also the contribution by *Ralph Janik*, *The Return of Neutrality*, pp. 277 in this volume. For more on Grotius' doctrine of "bellum iustum," see *Michael Bothe*, *Friedenssicherung und Kriegsrecht*, in: Wolfgang Graf Vitzthum/Alexander Proelß (eds.), *Völkerrecht*, 8th edition, Berlin/Boston 2019, pp. 755-874.

19 *Hugo Grotius*, *De Jure Belli ac Pacis Libris Tres*, Paris 1625, translated by Walter Schätzel, Tübingen 1950, pp. 542 ff.; on neutrality in Grotius, see also *Jamal El-Zein*, (note 2), pp. 45

20 *Hugo Grotius*, (note 19), p. 542.

21 *Hugo Grotius*, (note 19), p. 544 [translated from the German version]; see also *Patricia Egli/Milena Holzgang*, *Neutralitätsrecht und Neutralitätspolitik: Ein Überblick*, in: *AJP* 2022, p. 608. On the participation of neutrals in acts of war, see also *Gerhard Jandl*, „Die Neutralität (erneut) als Identitätsmerkmal, in: *Wiener Blätter zur Friedensforschung*, Vierteljahresschrift des Universitätszentrums für Friedensforschung (UZF), in: *Wiener Blätter zur Friedensforschung*, quarterly journal of the University Center for Peace Research (UZF)], No. 170, March 1/2017, pp. 17-22.

such as in inter-state disputes. It gives rise to obvious rules of conduct: no involvement in the conflict, no close ties with any of the parties to the conflict regarding the conflict, and equal treatment or non-discrimination of parties. The status of non-participation is, however, unstable because it is dependent on the recognition of the parties to the dispute and, according to the prevailing, albeit partially disputed, view, neutrality did not restrict the right to wage war at that time: in other words, states remained entitled to wage war also against neutral parties unless they had committed themselves to respecting neutrality.²² Without this recognition, non-participation may not work depending on the circumstances, or the neutral party may not be able to rely on its status.²³ Non-participation can, however, be in the interests of the parties to the conflict because it conveys stability and conserves their resources.²⁴ At the same time, it is in the interests of the party that does not want to be drawn into the conflict.²⁵ Ideally, declared non-participation results in greater stability for all, which is why the parties to the conflict also have an incentive to recognize this status. Neutrality is therefore also a concept of conflict limitation. At the same time, it opens the possibility of positive involvement by neutral parties in conflicts to mediate and help resolve them.²⁶ In this respect, neutrality is intended to stabilize the system and has also had this effect.²⁷

However, as Grotius's remarks show, neutrality as a concept stands and falls with war under international law: *without war, there is no neutrality*; war is the lifeblood of neutrality, i.e., the prerequisite for its existence and the basis for its *raison d'être*.²⁸ War is a state subject to rules, as is neutrality,

22 See also *Jamal El-Zein*, (note 2), pp. 127 with further references.

23 On the trust-based nature of neutrality, particularly with regard to its protective function, see also *René Rhinow*, Permanence as a unique feature – Switzerland and its policy of neutral pp. 70 in this volume.

24 So-called conflict limitation function; see *Jamal El-Zein*, (note 2), pp. 53; on securing the economic position of non-participating states, see *Mark E. Villiger*, 2. Teil – Zur Neutralität im Allgemeinen, in: *Mark E. Villiger*, Handbuch der Schweizerischen Neutralität Teil 2 – Über die Neutralität im Allgemeinen, in: *Mark E. Villiger*, Handbuch der Schweizerischen Neutralität, Zurich 2023, pp. 34.

25 This is the so-called protective function; cf. *Jamal El-Zein*, (note 2) pp. 54.

26 So-called mediation function; cf. *Jamal El-Zein*, (note 2), p. 54.

27 For more details on this, see the relevant comments by *René Rhinow* (note 23) in this volume on common security interests, which formed the background to Swiss neutrality, particularly in 19th-century Europe.

28 For a general discussion of this topic, see *Michael Bothe*, Neutrality, Concept and General Rules, in: MPEPIL 2015, margin note 19 et seq. Modern terminology refers to armed conflict.

and takes place between sovereigns. Through neutrality, a sovereign therefore withdraws from a conflict between other sovereigns. It does so in its own interest, but possibly also in a higher interest.

b) Neutrality and the doctrine of just war

If war determines the status of neutrality, does the question of the legitimacy of war have an influence on the status and options for action of the neutral party, or is the status determined solely by the fact of war? Grotius's remarks on neutrality are influenced by the doctrine of just war, whose leading proponents were Augustine and Thomas Aquinas. He acknowledges that there are legitimate and less legitimate motives for waging war. However, Grotius's era did not recognize any actual prohibitions on war: *waging war is and remains a sovereign decision*;²⁹ the structural and institutional prerequisites for prohibitions on war and their enforcement were lacking in the world of principalities and kingdoms of that time, especially in Europe.³⁰

c) Status issues

Neutrality is a status that is primarily linked to the fact of war, which is not unusual for the decentralized structure of international law, which repeatedly links international status consequences to facts.³¹ Nevertheless, the question of the legitimacy of war has a twofold influence on neutrality. On the one hand, war against a neutral party is not legitimate, or – as Grotius puts it – there is no right to wage war. On the other hand, the legitimacy of war can be inferred from the options available to the neutral party, particularly in terms of obligations of omission, namely not to do anything that harms the representative of the good cause and benefits the

29 See also *Jamal El-Zein*, (note 2), pp. 43. See also the references in this volume by *Ralph Janik* (note 18) pp. 279-285 to de Martens and Wheaton.

30 *Dietrich M. Schindler*, *Völkerrecht, Neutralität und Menschenrechte/Dauernde Neutralität* (1975), in: Benjamin Schindler/Daniel Thürer (eds.), *Gemeinwesen zwischen Tradition und Weltoffenheit, Ausgewählte Schriften von Dietrich Schindler* (1924-2018), Zurich/Geneva 2024, p. 369.

31 This applies, for example, in classical international law doctrine to the recognition of new states or relations with governments.

representative of the bad cause.³² What is good or bad is determined by the prevailing views on the criteria for the legitimacy of war – insofar as such criteria exist.

In terms of the history of international law, it is unclear whether neutrality as a status automatically followed from non-participation in a war or had to be declared and possibly also recognized by the warring parties.³³ There was no obligation to remain neutral,³⁴ and states that did not wish to participate were not obliged to make a formal declaration of neutrality in military conflicts between third states. Were they thus neutral or not? Even if, according to Verdross, there was no obligation to remain neutral, he believed that third countries were obliged under general international law to follow certain rules towards the belligerents and to tolerate interventions. "The epitome of these norms is the law of neutrality."³⁵ Were these obligations always binding on all states that did not participate in the hostilities, or not? Were there only belligerents or neutrals? States not involved in the conflict were not necessarily neutral, apart from those that were permanently neutral. They simply did not participate in the conflict, were non-belligerents,³⁶ and the parties to the conflict had to comply with the usual rules and customs of inter-state relations in their dealings with them.³⁷ Those states that not only did not participate in the hostilities but also wanted to be neutral in a conflict had to declare this – also for reasons of legal certainty and in their own interest – and in order to be sure of their status, but this status had to be recognized by the parties to the conflict.³⁸

32 See also *Jamal El-Zein*, (note 2), pp. 36, 44. This view is, in a sense, the precursor to what is known as benevolent neutrality; on the obligations of neutral states under international law, see *Gotthard Frick*, *Das Ende der Schweizerischen Neutralität?*, in: *ASMZ*, vol. 179, 07/2013, p. 10.

33 See also *Jamal El-Zein*, (note 2), pp. 52. See also *René Rhinow*, (note 23) pp. 67.

34 *Alfred von Verdross*, *Völkerrecht*, Berlin 1937, p. 311. However, this does not always seem to be entirely clear in international law doctrine insofar as those who wanted to benefit from the (protective) rights of neutrality had to behave neutrally.

35 *Alfred von Verdross*, (note 34), p. 311; on the rights and obligations of neutral states, see also *Marco Sassòli*, *Neutralität gibt's nicht à la carte*, in: *Schweizer Monat: die Autorenzeitschrift für Politik, Wirtschaft und Kultur*, vol. 102, 2022, pp. 65-66.

36 See also *Michael Bothe*, *Neutrality, Concept and General Rules*, in: *MPEPIL* 2015, para. 4.

37 *Michael Bothe*, *Neutrality, Concept and General Rules*, in: *MPEPIL* 2015, para. 4 ff.

38 *Mark E. Villiger*, *Handbuch der Schweizerischen Neutralität*, Zurich 2023, para. 364. This applies at least in recent times; see also *René Rhinow* (note 23) pp. 72. Permanent neutral countries are, of course, excluded from this.

d) The law of neutrality as a set of norms modifying the law of coexistence

There was thus a coexistence of the normal rules of inter-state relations and rules of neutrality, which consisted largely of obligations of omission and *partially modified the norms of coexistence*. The law of neutrality imposed obligations on the neutral party, which were usually obligations of omission, but also gave it rights that corresponded to the obligations of omission of the belligerents. A central right was that the neutral party could not be drawn into the military conflict and that its territory was inviolable; a central obligation was the equal treatment of the parties to the conflict and the refraining from acts of support for any of the parties to the conflict.³⁹

All this is particularly clear in the Hague Conventions on Neutrality, which codified part of the law of neutrality shortly before the First World War.⁴⁰ The Convention respecting the Rights and Duties of Neutral Powers and Persons in the Event of War on Land stipulates in Article 1 that the territory of neutral parties is inviolable, and Article 2 prohibits belligerents from moving troops through the territory of neutral parties. In return, the neutral party must, among other things, prevent the recruitment of combatants on its territory for the belligerents (Article 4) and may not allow the belligerents to station troops or technical equipment on its territory.

At the heart of The Hague's neutrality law was a *partial ban on war in favor of neutral parties* – a remarkable development at a time when the right to wage war was a natural expression of national sovereignty. In return, the

39 On this subject, also with reference to land warfare, see *Peter Hostettler/Olivia Danai*, Neutrality in Land Warfare, in: MPEPIL 2015, para. 7 ff.; *Nikolas Stürchler*, Der Begriff des Krieges im Völkerrecht: Spezifisch unter dem Gesichtspunkt des Neutralitätsrechts, in: SZIER 2011, p. 637; *Cécile Kienzi*, Schweizer Neutralitätspolitik, eine Quadratur des Kreises?, in: Schweizer Soldat, vol. 98, 12/2023, p. 34.

40 For detailed information on Hague law, see *Mark E. Villiger*, (note 38), p. 37 ff., in particular on its current significance; on the significance of the Hague Convention, see *Marco Jorio*, Die Schweiz und ihre Neutralität. Eine 400-jährige Geschichte, Zurich 2023, p. 175 ff.; on the Hague Neutrality Agreement and Switzerland's position, see *Dietrich M. Schindler*, Völkerrecht, Neutralität und Menschenrechte/Fragen des Neutralitätsrechts im Zweiten Weltkrieg (2001), in: Benjamin Schindler/Daniel Thürer (eds.), Gemeinwesen zwischen Tradition und Weltoffenheit, Ausgewählte Schriften von Dietrich Schindler (1924-2018), Zurich/Geneva 2024, p. 421 ff.; on the relevance of the Hague Conventions today, see also *Astrid Epiney/David Kläui/Sophie Dukarm*, Die Neutralität der Schweiz - status quo und Perspektiven, Schweizerischer Juristentag 2025 – Rechtliche Herausforderungen für die Schweiz im Spannungsfeld bewaffneter Konflikte, in: ZSR, Volume 144, 2025, II, p. 12.; on the obligations of a neutral state under the Hague Convention, see *Philippe Descamps*, Neutralität, eine Waffe für den Frieden, in: Le Monde diplomatique, 7 April 2022.

neutral state had to accept a loss of sovereignty in the form of obligations to act and refrain from acting, which also served to limit war and ensure the non-participation of the neutral state, while non-participating third states that were not neutral did not have to comply with these obligations, but also had a less secure status. War and its permissibility were *therefore the linchpin of The Hague's law of neutrality*. Without war, neutrality as a concept of international law made no sense, even if in political practice there was conduct in non-military conflicts that could also be described as neutral.

In this way, the relevant parts of The Hague Law of Neutrality overlapped with and modified the classic law of coexistence prior to the First World War. *The law of neutrality itself was a law to secure coexistence* as it ensured the peaceful coexistence of third countries with the warring parties. In contrast, it did not belong to the layer of cooperation, let alone integration, in international law. These levels were only rudimentary in the very sovereignty-oriented 19th century. Cooperation was dominated by trade, consular, settlement, and technology-related treaties (e.g., postal and railway services) and sometimes alliance treaties.⁴¹ International organizations as a form of permanent, institutionalized cooperation between states existed at that time only in the form of administrative unions based on the principle of consensus.⁴² Neutral states did not have to cooperate with other states or become institutionally integrated internationally—on the contrary, they were supposed to remain independent, and obligations of omission were intended to support this status.

41 See, for example, the articles in: Das schweizerische Konsularwesen im 19. Jahrhundert, Politorbis, Zeitschrift für Aussenpolitik No. 36, 2/2004, in particular Schnyder, Matthias, pp. 5-68. Alliances include in particular the Holy Alliance (1815) and the Three Emperors' League (1873) between the German Empire, Austria-Hungary, and Russia; on alliance treaties, see Nadir Weber, Lokale Interessen und große Strategien. Das Fürstentum Neuchâtel und die politischen Beziehungen der Könige von Preußen (1707-1806), Cologne/Weimar/Vienna 2015, p. 47.

42 Bardo Fassbender, Heinrich Triepel und die Anfänge der dualistischen Sicht von „Völkerrecht und Landesrecht“ im späten 19. Jahrhundert, in: Lukas Gschwend/Peter Hettich/Markus Müller-Chen/Benjamin Schindler/Isabelle Wildhaber (eds.), Recht im digitalen Zeitalter, Festgabe Schweizerischer Juristentag 2015 in St. Gallen, pp. 464.

3. Neutrality and the layer of cooperation in international law; the organized community of states

a) On the compatibility of neutrality and international cooperation

A myriad of bilateral and, above all, multilateral treaties, as well as international organizations as a permanent, institutionalized form of cooperation between states, usually based on international treaties as founding documents, embody the layer of cooperation in international law.⁴³ Neutrality as a special set of norms of coexistence law did not and does not fundamentally conflict with the layer of cooperation: the obligations of neutral states relate to a narrow area, namely armed interstate conflicts, limited to and only setting limits on action in times of peace on states that are permanently neutral.⁴⁴ Other policy areas are not affected by neutrality. In Switzerland, however, this was long viewed differently, with the result that after the Second World War, accession to international and European organizations in particular proceeded very slowly, based on a doctrinaire policy of neutrality that went far beyond the law of neutrality and had as effect, among other things, that Switzerland did not join the UN until 2002, i.e., almost 60 years after the founding of the world organization!⁴⁵

43 On the distinction between bilateral and multilateral treaties in international law: *Fabiane Thomann-Reber*, Die Kündigung völkerrechtlicher Verträge unter besonderer Berücksichtigung der schweizerischen Rechtslage und Praxis, in: ASR, Volume 841, 2024, para. 214 ff.

44 On permanent neutrality, see also *Michael Bothe*, Neutrality, Concept and General Rules, in: MPEPIL 2015, para. 16 ff.; on the debate surrounding permanent neutrality, see also *Rebecca Ingber*, The abuse of neutrality, in: *Virginia Journal of International Law*, vol. 65, 2025, p. 455 et seq.; on permanent neutrality as an extension of the Hague Conventions, see *Pearce Clancy*, Permanent Neutrality and the UN Security Council, in: *Irish Studies in International Affairs*, Volume 32, 2021, p. 241–259, esp. p. 244; cf. on the question of when support ends neutrality *Terry D. Gill/Kinga Tibori-Szabó*, *The Use of Force and the International Legal System*, Cambridge University Press, Cambridge 2024, p. 342 ff.

45 For details, see *Marco Jorio*, (note 40), pp. 357 ff.; cf. Federal Council decision on the result of the referendum of March 3, 2002, BBl 2002 3690. On the compatibility of neutrality with UN membership, see Message on Switzerland's accession to the United Nations (UN) of December 21, 1981, BBl 1982 I 497 ff.; on Switzerland's initial involvement in the UN, see *Martin Dahinden*, *Schweizerische Sicherheitspolitik im internationalen Kontext von 1815 bis heute: Eine Skizze*, Zurich 2025, p. 52; on Switzerland's accession to the UN, see *Mathias-Charles Krafft/Daniel Thürer/Julie-Antoinette Stadelhofer*, Switzerland, in: Vera Gowlland-Debbas (ed.), *National Imple-*

There were essentially two factors that motivated this reluctance towards the UN: firstly, doubts were expressed about the compatibility of neutrality with Security Council sanctions that neutrals as UN members are obliged to adhere to and to implement. Well-known representatives of international law doctrine expressed general concerns about the compatibility of neutrality with UN membership. The Federal Council's initial objections to Switzerland joining the UN disappeared after various other neutral countries had no problems with neutrality law as UN members. An initially envisaged neutrality reservation, which would hardly have been accepted by the UN, thus became unnecessary.⁴⁶ On the other hand, because of its overbroad understanding of neutrality, Switzerland wanted to avoid taking positions and making decisions in connection with inter-state disputes and tensions as far as possible. Remnants of this view have survived in Switzerland to this day. However, no other state that describes itself as neutral has gone as far as Switzerland in its understanding of neutrality. This applied not only to its policy of neutrality, but also to its understanding of the scope of neutrality law.

b) Prohibition of the use of force and neutrality

Like the League of Nations was, the UN is an institutionalized instrument of cooperation for securing and maintaining peace. Its purpose is to curb the use of force between states and to settle disputes peacefully. While the Covenant of the League of Nations did not actually prohibit the use

mentation of United Nations Sanctions, A Co-operative Study, Leiden/Boston 2004, p. 523 ff.

46 See, for example, *Alfred von Verdross*, (note 34) and cf. below in *Paul Guggenheim* (note 52); on the corresponding practice of the Swiss political authorities following the founding of the UN, see *Marco Jorio*, (note 40), pp. 359. A different view, in line with long-established doctrine, is taken by *Mark E. Villiger*, (note 40), pp. 61-88; a nuanced view on neutrality and UN membership is taken by *Anna Petrig*, *Die Schweiz im UNO-Sicherheitsrat*, in: *BJM* 2023, p. 39-69; *Constantine Antonopoulos*, *Non-Participation in Armed Conflict: Continuity and Modern Challenges to the Law of Neutrality*, Cambridge 2022, pp. 58-73; on the desire for explicit recognition of integral neutrality by Switzerland, see *Thomas Fischer* (note 97), pp. 108. See also *Markus Mohler* *The Swiss combination of neutrality policy and neutrality law – An analysis based on the example of Russia's war of aggression against Ukraine and the relationship between neutrality and international humanitarian law*, pp. 101. in this volume.

of force, but merely provided institutionalized mechanisms for preventing war, without prohibiting the latter,⁴⁷ the UN Charter, in Article 2 (4), establishes a general prohibition on the use of force in inter-state relations, with the only exceptions of the right of self-defense and of authorizations to use military force by the Security Council or, subsidiarily, by the UN General Assembly.⁴⁸

This has a decisive influence on the concept of neutrality, because the prohibition of war *removes the basis from the concept*: the fundamental nexus between the protection of the neutral party from the use of force in return for the obligation to avoid any escalation between the warring parties no longer applies. It is true that the rules on neutrality in land warfare under the 1907 Convention can in principle still be applied: With the general prohibition of war, the territory of the neutral party is even more inviolable, but not as a result of a recognized status as neutral, but rather as a result of a universally applicable norm of coexistence, i. e. the general prohibition of the use of force, compliance with which is guaranteed in the sense of the cooperation dimension of international law by an institutional superstructure, namely the system of collective security. The instrument of enforcement here is collective sanctions by the members in the sense of an institutionally anchored alliance against states that violate the prohibition of the use of force. This raises the question of whether compliance with the obligations of omission and imperatives of action directed at neutral states still makes sense for them, insofar as these obligations go beyond the norms of universally applicable international law. We will return to this point shortly.

47 A general prohibition of war was only introduced in the Briand-Kellogg Pact of 1928, i.e. outside the League of Nations Covenant; see also the contribution by *Ralph Janik*, (note 18) pp. 271.

48 In this respect, the UN Charter goes further than the Briand-Kellogg Pact; on the comprehensive prohibition of the use of force and the UN Charter, see *Manuel Rodriguez*, *Das Neutralitätsrecht und das umfassende Gewaltverbot* gemäss Art. 2 Abs. 4 UNO-Charta - Ansätze einer Lösung des Spannungsverhältnisses zwischen dem Neutralitätsrecht und dem System der kollektiven Sicherheit unter besonderer Berücksichtigung der Schweizer Neutralität und vor dem Hintergrund des russischen Angriffskriegs gegen die Ukraine, Basel 2024, p. 27; On the attempt to enforce the prohibition of the use of force, see also *Peter Lieb*, *Völkerrecht und Verbrechen in europäischen Kriegen des 20. Jahrhunderts*, in: Jörg Echternkamp/Hans-Hubertus Mack (eds.), *Geschichte ohne Grenzen? Europäische Dimensionen der Militärgeschichte vom 19. Jahrhundert bis heute*, 2nd edition, Berlin 2025, p. 88.

c) The system of collective security and neutrality

The fact is, however, that at least early international law doctrine struggled with the relationship between neutrality and the system of collective security as a particularly intensive level of international cooperation.⁴⁹ Guggenheim sums this up in the following words: "There is a contradiction between the principle of collective security and that of neutrality."⁵⁰ The London Declaration of the Council of the League of Nations of February 13, 1920, states the following with regard to Switzerland's position in the League of Nations and its neutrality: "La Société des Nations, tout en affirmant le principe que la notion de la neutralité des Membres de la Société des Nations n'est pas compatible avec cet autre principe que tous les Membres de la Société auront à agir en commun pour faire respecter ses engagement, reconnaît que la Suisse est dans une situation unique motivée par un tradition de plusieurs siècles, qui a été explicitement incorporée dans le Droit des Gens."⁵¹ This allowed Switzerland to become a member of the League of Nations.⁵² In the first edition of his textbook on international

49 See also the references in *Jamal El-Zein* (note 2), p. 55

50 Translation for the German original wording; *Paul Guggenheim*, *Völkerbund, Dumbarton Oaks und die schweizerische Neutralität*, New York 1945, p. 64; on "ius ad bellum" and "ius ad neutralitatem," see *Jakob Tanner*, *Die schweizerische Neutralität – ein Anachronismus*, Berlin 2023.

51 28/3076/44, Resolution adopted by the Council of the League of Nations, meeting in London at St. James's Palace on February 13, 1920, reprinted in the original at <https://dodis.ch/1721>; on the historical background, see *Marco Jorio*, (note 40), p. 214 ff.

52 "The League of Nations, while affirming the principle that the concept of neutrality among League members is incompatible with the principle that all League members must act in concert to ensure compliance with their obligations, recognizes that Switzerland is in a unique situation stemming from a centuries-old tradition, which has been explicitly incorporated into international law". See the corresponding federal resolution on Switzerland's accession to the League of Nations, dated March 5, 1920, BBl 1920, Volume I, p. 483: „Die Bundesversammlung der schweizerischen Eidgenossenschaft, nach Einsicht einer Botschaft des Bundesrates vom 4. August 1919 sowie einer Zusatzbotschaft vom 17. Februar 1920 und unter ausdrücklicher Feststellung, dass die immerwährende Neutralität der Schweiz, die insbesondere in der Akte vom 20. November 1815 anerkannt worden ist, in Art. 435 des zwischen den alliierten und assoziierten Mächten und Deutschland am 28. Juni 1919 abgeschlossenen Friedensvertrages als ein Abkommen zur Aufrechterhaltung des Friedens anerkannt und dass sie nach Art. 21 des Völkerbundsvertrages als mit keiner Bestimmung dieses Vertrages unvereinbar anzusehen ist, wie dies der Rat des Völkerbundes in seiner am 13. Februar 1920 in London abgegebenen Erklärung feierlich anerkannt hat, [...]“ ["The Federal Assembly of the Swiss Confederation, having considered a message from the Federal Council dated August 4, 1919, and a supplementary message dated

law, Alfred von Verdross argued that the participation of a neutral state in collective economic sanctions under Articles 10 and 16 of the Covenant against a state that had unlawfully attacked another state constituted unilateral behavior that violated the principle of impartiality as part of the law of neutrality.⁵³

Verdross saw particular problems in collective sanctions against states that were not members of the League of Nations. Since such a state was not required to comply with the obligations under the League's statutes, it could take reprisals.⁵⁴ It should be noted, however, that this has nothing to do with neutrality: Insofar as economic sanctions affect economic relations governed by international law, there is generally a right of retaliation regardless of neutrality. In the case of neutral states, however, there is also the violation of the principle of impartiality. This principle seems to require that sanctions be imposed not only on the aggressor, but also on the state that has been attacked. So, if, within the framework of the collective security system, the aggressor is to be sanctioned to stop his illegal actions, this view holds that the principle of equal treatment under the law of neutrality requires the imposition of the same sanctions on the attacked state. This was one of the reasons for Switzerland's hesitant adoption of EU sanctions against Russia.⁵⁵ However, this understanding of neutrality obligations un-

February 17, 1920, and expressly noting that the perpetual neutrality of Switzerland, which was recognized in particular in the Act of November 20, 1815, is recognized in Article 435 of the peace treaty concluded between the Allied and Associated Powers and Germany on June 28, June 1919 as an agreement for the maintenance of peace and that, according to Article 21 of the Covenant of the League of Nations, it is to be regarded as incompatible with no provision of that Covenant, as the Council of the League of Nations solemnly recognized in its declaration made in London on February 13, 1920, [...]. On Switzerland's special position as a member of the League of Nations *Jann von Sprecher*, Als die Schweiz zur integralen Neutralität zurückkehrte, in: *Schweizer Monat: Die Autorenzeitschrift für Politik, Wirtschaft und Kultur*, 2022, p. 63 f.

53 *Alfred von Verdross*, (note 34), pp. 326

54 *Alfred von Verdross*, (note 34), p. 327; *Andreas v. Arnould*, (note 4), margin note 1042.

55 On Switzerland's adoption of EU sanctions against Russia: *Thomas Cottier*, Der Ukraine-Krieg: Wendepunkt in den Beziehungen der Schweiz zur Europäischen Union und zur NATO?, in: *SRIEL* 2022, p. 547 ff.; *Peter Burckhardt/Paka Nina Lumengo*, Die Russland-Sanktionen der Schweiz, in: *RIW* 2022, p. 266 ff.; *Thomas Cottier*, Die Kernfrage der Neutralitätsdebatte, in: *NZZ* No. 160 of July 12, 2024, p. 18; on Switzerland and the EU sanctions *Pascal Lottaz*, Im neuen Kalten Krieg ist die Schweiz Konfliktpartei, in: *Schweizer Monat*, Volume 102, 2022, pp. 67-69; Federal Council, press release dated February 28, 2023, Switzerland adopts EU sanctions against Russia, www.admin.ch/gov/de/start/dokumentation/medienmitteilungen.m

dermines the purpose of sanctions against the aggressor, because it requires the weakening of the attacked state, which is also sanctioned even though it has not committed any violation of the law. This also removes the legal disapproval of the aggressor's unlawful behavior: neutrality thus mutates into legal and moral indifference.⁵⁶

This no longer has anything to do with the original system-stabilizing function of neutrality: prima facie impartiality becomes covert partiality, because the neutral party effectively places itself outside the collective security system and does not really support its decisions. Nevertheless, Verdross approved Switzerland's decision in the Abyssinia War 1935/36 to impose a bilateral ban on the export of war material, rather than a unilateral ban as decided by the League of Nations, because in his opinion there is an incompatibility between neutrality and the sanctions regime under the League of Nations Covenant, in accordance with Article 16 CLN.⁵⁷ However, it remains unclear what this would concretely entail, as it could ultimately have meant an incompatibility between neutrality and League of Nations membership, at least for permanently neutral countries, which could only have been countered by a genuine neutrality reservation. This is contradicted by the fact that Switzerland, Belgium, Sweden, and the Netherlands became members of the League of Nations without a neutrality reservation.

The relationship between neutrality and the system of collective security can therefore be described as ambivalent and somewhat unclear at best, and incompatible at worst.⁵⁸ This also applies to the relationship between

sg-id-87386.html ; Anna Petrig, Die Vereinbarkeit von Sanktionen mit der Schweizer Neutralität, in: ZSR/RDS Volume 143 I, 4/2024, p. 413.

56 For details on the problem of indifference in connection with neutrality, see Paul Guggenheim, (note 50), pp. 64.

57 Alfred von Verdross, (note 34), p. 327; on the various views on the relationship between neutrality and Art. 16 CLN, see Jamal El-Zein, (note 2), pp. 58 f.; on Switzerland's distancing itself from the League of Nations, see Theodora Peter/Marco Jorio, In Europa herrscht Krieg – und die Schweiz ringt um ihre Neutralität, in: Schweizer Review, die Zeitschrift für Auslandschweizer, vol. 49, 6/2022, p. 7.

58 For a detailed discussion, see Adrian R. Schaub, Neutralität und Kollektive Sicherheit. Gegenüberstellung zweier unvereinbarer Verhaltenskonzepte in bewaffneten Konflikten und These zu einem zeit- und völkerrechtsgemässen modus vivendi, Diss. Univ. Basel, Basel/Frankfurt a.M. 1995; see also the comments by Peter Hilpold, *The right to neutrality at a crossroads: The situation in Austria and Switzerland from the perspective of international law, European law and constitutional law* pp. 22 in this volume.

neutrality and the prohibition of the use of force.⁵⁹ The Briand-Kellogg Pact largely, though not completely, prohibited war. This meant that, regardless of a neutrality status, all states were prohibited from providing military support to an aggressor state.

d) Neutrality and support for the (unlawfully) attacked state

The question arises, however, as to what influence neutrality has on the permissibility of supporting the attacked state, or to what extent neutrality can still have any effect in this regard. Since neutrality is a concept based on the permissibility of war, it can be argued that its basis ceases to exist when wars are prohibited. It is not neutrality, but the *dichotomy of permissible and impermissible use of force* that would then be decisive, leaving no room for neutrality, but requiring sanctions in the form of individual or collective, including military reprisals to enforce norms and stabilize the system, e.g., within the framework of a collective security system. Because neutrality does not apply, even those who are permanently neutral may support the attacked state, even with military means. In this respect, they have the same freedom of choice as all other states, although they are of course free to refrain from providing support on the basis of an autonomous (neutrality) policy decision. What is missing is legal obligation.

This view is rejected by Verdross. He believes that neutrality continues to apply, as there is no obligation under international law to assist the attacked state.⁶⁰ This is correct insofar as such an obligation would leave no room for neutrality. The opposite assumption, namely that neutrality applies as a result of the absence of an obligation to provide assistance, is not compelling. The very inadmissibility of wars, given the legal and moral indifference associated with neutrality, argues against an obligation to remain neutral. In the interwar period, a concept of neutrality was developed that, in deviation from the strict principle of equal treatment, allowed discrimination against the aggressor.⁶¹ In the second edition of

59 For details on the relationship between neutrality and the Briand-Kellogg Pact, see *Jamal El-Zein*, (note 2), pp. 60 with further references.

60 *Alfred von Verdross*, (note 34), p. 327; see also *Michael Bothe*, Neutrality, Concept and General Rules, in: MPEPIL 2015, paras. 10 and 28et seq.

61 Cf. *Jamal El-Zein*, (note 2), pp. 62 with further references. The USA followed this view at the outbreak of World War II until it entered the war.

his work on international law, published in 1950, Verdross retrospectively notes, in contrast to the first edition, that during the First World War there had been a revaluation of neutrality, with the view gaining ground that every state was obliged to take a stand against an aggressor acting in violation of international law.⁶² Verdross noted a very widespread view that a war of aggression constituted a crime against the international community, against which all states must intervene in solidarity.⁶³ Verdross constructed this *ex post* in 1950, even though in the interwar period there was no concept of international law norms applicable *erga omnes*. Verdross then rightly notes that the *Brian-Kellogg Pact* does not recognize any obligation to remain neutral.⁶⁴ The pact does not in fact comment in any way on neutrality, nor does it generally comment on the consequences of violating the prohibition of war. This was the purpose of the collective security system of the time, embodied in the League of Nations. A key question for Verdross is to what extent support for the attacked state is permissible. He argues that such assistance is permissible in the absence of an obligation of neutrality, but that this means that such a state can no longer invoke neutrality.⁶⁵ Anyone who does not want to be drawn into war must be neutral. Clearly, Verdross rejects the view that under the law at the time there was an obligation to support a state under attack. This, he argues, is a legal policy requirement that would abolish neutrality in the case of unlawful wars. In the case of non-prohibited wars, on the other hand, the right to be neutral would continue to exist.⁶⁶

Verdross's remarks point to a fundamental problem of neutrality in cases of wars that violate international law: *those who wish to benefit from neutrality status must not support the attacked state*. They must adhere to the principle of equal treatment and treat the aggressor who violates international law in the same way as the victim of aggression – even in the case of unjust, illegal wars. In view of this, it is not surprising that after the end of both the First and Second World Wars, neutrality fell into disrepute in some quarters: the neutral party was seen as an unsupportive profiteer. However, this meant that the conflict-limiting aspects of neutrality were lost sight of.

62 *Alfred von Verdross*, *Völkerrecht*, Vienna 1950, p. 397 et seq.

63 *Alfred von Verdross*, (note 62), p. 398.

64 *Alfred von Verdross*, (note 34), p. 327.

65 *Michael Bothe*, *Neutrality, Concept and General Rules*, in: *MPEPIL* 2015, para. 16 et seq.

66 *Alfred von Verdross*, (note 34), p. 328.

4. The influence of UN coexistence law and the collective security system on neutrality

a) The partial dissolution of the right to neutrality in UN coexistence law

The UN Charter sets out key principles of coexistence in Articles 1 and 2. Article 1 describes the objectives of the UN, while Article 2 sets out the principles to be observed in pursuing these objectives. The purposes include the maintenance of peace, including the use of the collective security system, the development and promotion of friendly relations among nations to ensure international peace, and global cooperation to address common problems, while respecting and promoting human rights. These purposes are fundamentally irrelevant to neutrality. Coercive measures within the framework of the collective security system may constitute a certain exception. We will return to this point later. The principles relevant to the implementation of the UN's objectives are the sovereign equality of states, the obligation to fulfill the obligations of the Charter in good faith, the duty to settle disputes peacefully, the prohibition of the use of force, the obligation to implement UN measures, in particular sanctions, the renunciation of support for a sanctioned state, and the principle of non-interference. All these principles are set out in the famous Resolution 2625 (XXV) of the UN General Assembly of 1970, the so-called Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations. This resolution, which was adopted by consensus, forms the core of the international law of coexistence, alongside the provisions of the Charter.⁶⁷ The Declaration does not mention neutrality. Neither it nor other UN resolutions provide any direct indication of a possible special status for neutral states. Rather, the obligations under the principles of coexistence apply to all states without exception. However, the principles have an indirect impact on neutrality.

The definition of the prohibition of the use of force is of particular importance. The obligation derived from this to prevent the deployment of troops and armed groups for incursions into a third country is particularly striking. This obligation, which was previously postulated for neutral

67 UN-GA, Resolution A/RES/2625 (XXV), Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations.

states, thus becomes a general one. At the same time, as already noted, the general prohibition of the use of force undermines neutrality. The obligation to settle disputes peacefully and the prohibition of intervention, i.e., the requirement not to interfere in the internal affairs of other states, are self-evident for neutral states, especially for permanently neutral states, but apply to all states. This means that no unique selling point can be established for neutrality. This also applies to respect for the principle of sovereign equality of states. From this it can be deduced, among other things, that the territorial integrity and political independence of a state are inviolable.⁶⁸ What used to be a privilege of neutral states is now valid to all states.

The UN law of coexistence has thus led above all to *the special legal status of neutral states becoming generalized in essential areas* and becoming part of the general principles of coexistence. Neutral states such as Switzerland can still invoke the special norms of neutrality law. In substance, however, the *law of neutrality is largely superseded by the UN law of coexistence*. Although there is no direct conflict between the norms,⁶⁹ the newer norm replaces the older one. In other words, the modernization of the law of coexistence has led to the partial disappearance of the law of neutrality.⁷⁰

b) The impact of the UN system of collective security

The collective security system is embedded in UN coexistence law and serves to enforce its security-related aspects. This is already expressed in the first sentence of the operative part of the UN Charter, in Article 1, paragraph 1, sentence 1, according to which the United Nations sets itself the goal, among other things, of "to maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and for the peaceful settlement

68 See paragraph 2(d) of the description of the sovereign equality of states in the 1970 Declaration; on the right to self-defense and state sovereignty, see Dirk Hasler, *Das Recht der staatlichen Selbstverteidigung: von der zulässigen Ausnahme zur rechtswidrigen Regel?*, in: *Sicherheit und Frieden*, 1/2006, pp. 33-37.

69 See in this context Article 103 of the UN Charter, according to which, in the event of a conflict between obligations under the Charter and obligations under other international agreements, the obligations under the Charter shall prevail.

70 In his contribution to this volume, Ralph Janik speaks of a definitive end to the law of neutrality as a consequence of the UN Charter; Janik (note 18) pp. 308

of international disputes or situations which might lead to a breach of the peace, by rapid and effective collective action according to the principles of justice and international law."

By its nature, the system of collective security is *cooperative law and, in exceptional cases, also integration law*. The Charter relies on international cooperation to secure, maintain, and restore peace under the leadership of the Security Council as the body primarily responsible for peace. In this context, Article 2(5) of the Charter requires Member States to cooperate with each other and with the UN in enforcing decisions and prohibits support for states against which sanctions have been imposed. Furthermore, Article 25 of the UN Charter stipulates that the members of the United Nations agree "to accept and carry out the decisions of the Security Council in accordance with this Charter." Resolutions of the Security Council based on Chapter VII of the Charter may have the legal nature of recommendations or may be legally binding on the parties to the conflict, but possibly also on all member states. This depends on the will of the Council as reflected in the wording of the resolutions. In contrast, resolutions of the Security Council under Chapter VI are generally mere recommendations to the parties to the conflict. The decisions of the General Assembly in conflicts are also generally mere recommendations. Article 25 does not differentiate between the legal nature of the decisions. The fact that such decisions may be politically binding rather than legally binding does not preclude an obligation to observe and implement them. However, failure to comply with this obligation cannot be qualified as a violation of membership obligations.

What is the relationship between the collective security system and the law of neutrality? In principle, collective security takes precedence. This follows from Articles 2 (5), 25, and 103 of the Charter. This means that binding decisions take precedence over the law of neutrality in any case, insofar as the latter can still play a role. This may be the case with equal treatment under the law of neutrality. A binding arms or economic embargo, for example, leaves no room for a policy of *courant normal*. If an embargo is directed only against one party to the conflict, e.g., because it is the aggressor or the violator of the law, a neutral party could unilaterally extend the embargo to the other party or parties to the conflict on the basis of the principle of equal treatment under the law of neutrality. However, the Security Council will have had its reasons for imposing a unilateral embargo. By taking such a measure, a neutral party would therefore be opposing the considerations and values behind the embargo decision. In

other words, it would be acting contrary to the spirit and intent of the decisions. This would probably be understood by very few of the member states.

This reveals a fundamental problem: what remains of neutrality in view of the development of UN coexistence law and the UN system of collective security *no longer allows for a coherent concept of neutrality*. Neutrality can no longer be understood in this context, and referring to neutrality does not result in a gain in legitimacy – quite the contrary. The corresponding options for action then exist independently of neutrality as an expression of national sovereignty.

The same considerations also apply to the non-binding resolutions of the Security Council and the General Assembly. It is true that objections based on the law of neutrality against such resolutions may be valid in view of their non-binding nature. However, even if there is no legal obligation to comply with these resolutions, they are shaped by considerations, values, and community interests that led to their adoption. Invoking the law of neutrality against resolutions that are intended to contribute to the resolution of a conflict is a difficult undertaking that will certainly not lead to a gain in legitimacy for neutrality.

The conclusion therefore remains that the right to neutrality *has practically no place* in an international system determined by the principles of coexistence and the UN's collective security system, *insofar as this system functions*. This is demonstrated – to take one example – by Switzerland's activities as a member of the UN. The right to neutrality played practically no role here, and neutrality policy played a highly subordinate role. Even when it was a member of the Security Council in 2023/24, Switzerland concentrated on traditional policy areas such as human rights, international humanitarian law, and conflict mediation.

c) Neutrality in the event of the failure of the UN system of collective security; Switzerland's conduct

After a brief period of rejection of neutrality by the victorious powers of the Second World War,⁷¹ it experienced a renaissance. The reason for this was

71 See Marco Jorio, (note 40), pp. 359; on the military violation of neutrality in the two world wars, see Jürg Martin Gabriel, Die Gegenläufigkeit von Neutralität und humanitären Interventionen, in: SZIER 2000, p. 222.

the formation of international blocs as part of the Cold War⁷² and the failure of the collective security system because of frequent vetoes by the most important veto powers, the US and the Soviet Union. This made it largely impossible for the Security Council to engage in genuine crisis and conflict management. Armed national and international conflicts smoldered largely unchecked—in some cases as proxy wars between the superpowers. In general, this situation of inadequacy on the part of the world organization and the weakness of the enforcement of central Charter norms revealed the tendency of many states to fall back on legal concepts and institutions of classical international law.⁷³ This also included neutrality.

In addition to the classic law of neutrality based on the Hague Conventions of 1907, new variants such as neutralism and non-alignment developed, which were far more political than legal concepts, but which found their place in international politics during the East-West conflict. Neutrality was also understood in many different ways. For example, there have been and continue to be forms of neutrality in which one of the parties to a conflict is supported by various non-military means.⁷⁴ It is unclear whether these are variations of neutrality or a violation of the law of neutrality.⁷⁵ Very few states that described themselves as neutral were guided by the Hague Conventions on Neutrality of 1907. After the Second World War, these conventions were ratified by only a very few states, and a total of only around 40 states have acceded to them, most of them from Europe and America. None of the well over 100 states that emerged after the Second World War in the context of decolonization have ratified these treaties. The conventions are therefore far from being globally applicable, and their norms can no longer be considered part of customary international law,⁷⁶ especially since their content is also very outdated, as they are based on

72 See Marco Jorio, (note 40), p. 373 ff.

73 See Wilhelm G. Grewe, *Epochen des Völkerrechtsgeschichte*, Berlin 1988, p. 794 f.

74 This is known as benevolent neutrality; instead of many Heintschel von Heinegg, *Benevolent Third States in International Armed Conflicts: the Myth of the Irrelevance of the Law of Neutrality*, in: *International Law and Armed Conflict: Exploring the Faultlines, Essays in Honour of Yoram Dinstein*, in: Brill/Nijhoff 2007, p. 545. This applied, for example, to the neutrality of the United States before its entry into World War II; cf. Peter Hostettler/Olivia Danai, *Neutrality in Land Warfare*, in: MPEPIL 2015, para. 3.

75 Peter Hostettler/Olivia Danai, *Neutrality in Land Warfare*, in: MPEPIL 2015, para. 4, according to which these are violations of neutrality.

76 A. M. Michael Bothe, *Neutrality, Concept and General Rules*, in: MPEPIL 2015, para. 7.

the premise that wars are a means of enforcing national interests that is permitted to states.

However, after the end of the Second World War and during the Cold War, neutrality appeared to many states to be an attractive way of avoiding being drawn into military conflicts, especially conflicts between the super-powers and their allies. These states could rightly claim that by turning to neutrality, they were attempting to fill a legal vacuum because the collective security system was not working. The regression to the right of coexistence and its resurgence in its seemingly classic form therefore appeared to be a sensible fallback position in view of the failure of the international system to secure peace. However, this renaissance had little to do with classic neutrality as part of the right of coexistence. Normally, states, after the Second World War, did not participate in armed conflicts between third states, but did not see themselves as neutral, but simply as not involved in the conflict and not interested in it. This had nothing to do with the classical idea of neutrality as a status resulting, as it were, *ex lege*, with binding rights and obligations for states not involved in a war. Ultimately, this neutrality was a shadow of its former self: it could only be applied in the event of a failure of the collective security system and, given the low level of ratification of the Hague Conventions on Neutrality, its significance was somewhat unclear. In addition, it faced competition from concepts such as neutralism and non-alignment,⁷⁷ and was ultimately overshadowed by the prevailing view that strict neutrality was incompatible or at best only partially compatible with the obligations of the Charter.

Only a few states adhered to the traditional concept of neutrality, foremost among them Switzerland, which for a long time placed neutrality at the center of its foreign relations, which prevented it from becoming a member of the UN until the end of the Cold War. This very doctrinaire understanding of neutrality, which went far beyond what was legally required,⁷⁸ and the resulting political consequences were unique. Other European neutral countries such as Austria, whose neutrality was established

⁷⁷ *Michael Bothe*, Neutrality, Concept and General Rules, in: MPEPIL 2015, para. 16 ss.

⁷⁸ For details, see *Marco Jorio*, (note 40), pp. 358, esp. pp. 379; on Switzerland's understanding of neutrality, see *Christophe Farquet*, Neutral Paradoxes. Switzerland and the Allies at the Beginning of the Second World War, in: *Diplomacy & Statecraft*, Vol. 35 4/2024, pp. 605–630, esp. p. 614.

on the model of Switzerland,⁷⁹ Sweden, Ireland, and Malta⁸⁰ handled their neutrality much more flexibly and integrated themselves without any problems into all important international organizations, including the EU. In Switzerland, on the other hand, the very sovereignty-oriented level of coexistence was so dominant that any steps toward international cooperation and integration immediately raised domestically the question of neutrality.

With the end of the Cold War and the resurgence of a functioning system of collective security, Switzerland also revised its concept of neutrality, which was outdated in every respect.⁸¹ It joined the UN after having already largely adopted UN sanctions as a non-member state in order to avoid being suspected of indirectly helping sanctioned states, and reduced its neutrality to its so-called legal core, i.e., essentially to the Hague Conventions on Neutrality of 1907. As a result, neutrality played no role for Switzerland within the framework of the UN.⁸²

What is the so-called legal core of neutrality in the state system ruled by the UN Charter? The inviolability of territory and the fundamental non-participation in armed conflicts are rights and obligations that already arise from the principles of coexistence, namely the prohibition of the use

79 See *Peter Hilpold* (note 58); on Austria's neutrality in comparison to Switzerland's neutrality, see *Gerhard Jandl*, 20 Years of Austrian Partnership with NATO – Record and Outlook, in: *Politorbis*, Nr. 61: Schweizer Partnerschaft mit der Nato 1/2016, p. 75; on the comparison of the law of neutrality between Austria and Switzerland, see *Peter Hilpold*, Das Neutralitätsrecht Österreichs und der Schweiz im "weiten Feld" des internationalen Rechts, Aktuelle Entwicklungen im Vergleich, in: *AVR* 60/2022, pp. 268–287; on Austria's neutrality following the example of Switzerland, see *Ralph Janik*, Neutralität 2023: 2023: Verfassungs- vs. Völkerrecht? Von Einheit zum Widerspruch, in: *ZöR* 2024, p. 358; on the debate on Austria's neutrality in comparison to Switzerland, see *Martin Senn*, Eine Debatte über Österreichs Neutralität: Warum sie notwendig ist und wie sie geführt werden sollte, in: *ÖZP*, Volume 53, 2024, p. 2.

80 For a detailed discussion of the neutrality of Ireland and Malta, see *Ulrike Haider-Quercia*, Neutrality in the European context: Constitutional perspectives of Ireland and Malta pp. 337 in this volume; for a comparison of the understanding of neutrality between Switzerland and Finland, Austria, and Sweden, see *Matthieu Gillabert/Pauline Milani*, Communicating neutrality: public diplomacy by neutral states at the beginning of the Cold War in: *European Review of History: Revue Européenne d'histoire*, vol. 27, 5/2020, pp. 628–650.

81 For a detailed discussion of this development, see *Marco Jorio*, (note 40), pp. 419. For *Ralph Janik*, this is the time of the "swan song of neutrality," cf. *Ralph Janik*, (note 18) pp. 296.

82 For further information on Switzerland's neutrality in the UN Security Council from today's perspective, see *Anna Petrig*, Die Schweiz im UNO-Sicherheitsrat, in: *BJM* 2023, pp. 39–69.

of force and the principle of sovereign equality of states. A direct influence of the law of neutrality is particularly evident in the prohibition of participation in collective military self-defense to protect a state under attack, as long as and to the extent that the Security Council has not taken the necessary measures.⁸³ However, the decision not to provide military assistance to a victim of aggression can just as easily be a sovereign decision by a state. Neutrality is not necessary for this. As a rule, formal decisions by states and groups of states were only made in the event of military support for a state under attack. Insofar as the question of assistance is discussed at all in other states, the discussion is only determined by considerations of neutrality in very few states. General political considerations are at the forefront. In the vast majority of states, there are normally no such discussions.

Another, possibly relevant, principle of neutrality law is the requirement of equal treatment of the parties to the conflict. However, this obligation also only plays a role if the Security Council has not issued any binding resolutions based on Chapter VII of the Charter, i.e., if the UN system of collective security is not functioning in an armed interstate conflict. Otherwise, Security Council resolutions, such as a general arms embargo, apply to the parties to the conflict at large. The principle of equal treatment can have an impact in the area of war material deliveries, for example by obliging neutral states to stop supplying military goods to a state that has recently become involved in an armed conflict.⁸⁴ In Switzerland, neutrality played a role as to the refusal to grant NATO states permission to fly over its territory in military interventions in Serbia and Kosovo that were not authorized by the Security Council. However, these are all side effects. Neutrality is not required as a justification for these measures.

83 *Michael Bothe*, Neutrality, Concept and General Rules, in: MPEPIL 2015, para. 10.

84 For an assessment of the supply of war material according to contemporary and modern international law, see *David Furger*, Due Diligence bei der Waffenausfuhr genehmigung - Zu den völkerrechtlichen Anforderungen an die nationale Kriegsmaterialkontrolle, in: *Sicherheit & Recht*, 3/2018, p. 176. For a detailed discussion of this issue, see the contribution by *Thomas Cottier*, Neutrality, Trade in Implements of War and the Prohibition of Force – From equal treatment of belligerents to the protection of human rights, democracy and the rule of law, pp. 233 in this volume; on Switzerland's position on the supply of war material, see *Priska Seiler Graf/Jo Lang/Anna Leissing*, Wie geht Friedenspolitik in der Schweiz?, in: *Neue Wege, Beiträge zu Religion und Sozialismus*, vol. 115, 2021, pp. 11-18.

5. Neutrality and the layer of integration under international law

The layer of integration under international law is usually captured by the concept of *supranationalism*, i.e., the phenomenon whereby states create joint institutions to which they transfer powers in policy areas over which the institutional bodies can exercise political and regulatory authority on behalf of and above the political bodies of the participating states. This results in a genuine transfer of originally national powers to a joint international institution, which can exercise these powers with its own organs and independent powers. This, too, is an ideal type, embodied above all in the EU, and there are fluid transitions. For example, the practice of the UN Security Council sometimes has supranational features, e.g. when the Council imposes legally binding, directly applicable sanctions against non-state actors and individuals, or – as in the case of counterterrorism – when the Council imposes in resolutions general rights and, above all, obligations derived from existing international conventions on combating terrorism.⁸⁵

What is the relationship between neutrality and the layer of integration under international law? From a purely abstract point of view, the incompatibility between neutrality and this layer is even more obvious than with the layer of cooperation. The inherent aloofness of neutrality, the autonomy and sovereignty orientation it embodies, is incompatible with the communitarization of national competences within the framework of common institutions: what is communitarized is removed from the disposal of the nation state. In this respect, neutrality can no longer exist at the national level.⁸⁶

In reality, the contrast is less obvious because neutrality only affects a few policy areas, namely national and international security and the possibilities and limitations of corresponding intergovernmental cooperation.

85 Instead of many *others*, see Mehrdad Payandeh, Rechtskontrolle des UN-Sicherheitsrates durch staatliche und überstaatliche Gerichte, in: ZaöRV 66/2006, pp. 41 ff.; on the general measures of the UN Security Council: Peter Wallensteen/Patrik Johansson, The UN Security Council: Decisions and Actions, in: von Einsiedel/Malone/Ugarte (eds.), The UN Security Council in the Twenty-First Century, London 2016, pp. 27-54; on sanctions against individuals, see Peter Wallensteen/Helena Grusell, "Targeting the Right Targets? The UN Use of Individual Sanctions," Global Governance 18/2012, pp. 207-230.

86 See also Adrian R. Schaub, (note 58), pp. 108.

Therefore, the institutionalized communitarization of many policy areas may be irrelevant to neutrality: economy, social affairs, human rights, culture, health, environmental protection—neutrality does not fundamentally limit cooperation in these areas. The EU therefore has neutral member states, namely Austria, Ireland, and Malta, and formerly also Sweden and Finland.⁸⁷ All these states participate in the EU's Common Foreign and Security Policy and Common Security and Defense Policy. However, the compatibility with neutrality is more than questionable. The relevant Article 42(7) of the EU Treaty contains a mutual assistance clause referring to the right to individual and collective self-defense guaranteed in Article 51 of the UN Charter. The provision reads as follows: "(7) 1 In the event of an armed attack on the territory of a Member State, the other Member States shall owe it all the aid and assistance in their power, in accordance with Article 51 of the Charter of the United Nations. 2 This shall not affect the specific character of the security and defense policy of certain Member States."

Paragraph 2 refers primarily to those EU Member States that are also members of NATO, in the sense that they fulfill their obligation to provide assistance within the framework of NATO. This is also indicated by paragraph 3, which reads as follows: "3. Obligations and cooperation in this area shall remain consistent with the obligations undertaken in the North Atlantic Treaty Organization, which remains the foundation of collective defense for its member states and the means of achieving it." This makes it clear that, given that 22 of the 27 EU member states belong to NATO, the EU's mutual assistance obligation is partly complementary to and partly subsidiary to the mutual assistance obligation in Article 5 of the North Atlantic Treaty.

87 On the relationship between EU membership and neutrality in the case of Austria, see *Peter Hilpold*, (note 58) pp. 35 in this volume; with reference to Ireland and Malta, see *Ulrike Haider-Quercia*, *Neutrality in the European context: Constitutional perspectives of Ireland and Malta* pp. 337; *Ralph Janik* comments on Austria's neutrality in "Neutralität schadet Österreich zunehmend" *Neutrality is increasingly damaging Austria!*, in: *Salzburger Nachrichten*, July 31, 2025, p. 2; on Austria, Finland, and Sweden's commitment to the common foreign and security policy, see *Hubert Isak*, *GSVP und Irische Klausel: Neutrale Mitgliedstaaten – Lösung oder Problem?*, in: *Sicherheit & Frieden*, vol. 36, 4/2018, pp. 186-190, esp. p. 186.

However, the paragraph is also to be understood in the sense of consideration for the neutral EU members.⁸⁸ However, this can hardly be understood as a general exemption from the obligation to provide assistance, because this would partly contradict its description in paragraph 1.⁸⁹ The reference to Article 51 of the UN Charter then makes it clear that the duty to provide assistance fundamentally includes the military component. However, an obligation on neutral states to provide military assistance would result in the elimination of the core elements of neutrality law that are claimed to be currently still in force. A military duty to provide assistance could at best be justified by the special legal nature and structure of the Union, with its almost federal-like relations between EU member states, also in contrast to the question of joining NATO as a purely defensive alliance. However, the viability of such an argument is doubtful: if a non-neutral confederation of states provides for an obligation of military assistance on the part of its members, the prevailing opinion is likely to be that the members are not neutral. At present, however, the understanding is that this provision takes neutral states into account, which means that they cannot be obliged to provide military assistance.⁹⁰

88 On the so-called Irish clause, see *Ulrike Haider-Quercia*, (note 87) pp. 337; also *Peter Hilpold* (note 58); on the Irish clause as a lifeline for neutrality, see *Waldemar Hummer*, Die neue EU als „Militärpakt“ Solidarität-Neutralität-„irische Klausel“, in: *EuZ* 2005, pp. 2-6; on the interpretation of the Irish clause, see also *Gerhard Jandl*, Die gemeinsame europäische Verteidigung – was ist sie, und wenn ja, wie viele?, in: *Sicherheit und Frieden* 4/2018, p. 174; on the Irish clause and the invocation of neutral status with reference to Austrian law, see *Peter Bußjäger*, Die Neutralität, die NATO und der Demos – Reflexionen über den Rang der Neutralität und eines allfälligen NATO-Beitritts in der Normenhierarchie der Bundesverfassung, in: *ÖZP* Volume 53, 2024, p. 4; on the UN Charter's consideration of the right to neutrality, see *Evelyne Schmid*, Optional but not qualified: Neutrality, the UN Charter and humanitarian objectives, in: *International Review of the Red Cross*, 2024, pp. 1044-1064, esp. pp. 1052

89 See also *Peter Hilpold* (note 58) pp. 35.

90 See also *Peter Hilpold*, (note 58) pp. 50 with a detailed explanation of Austria's concrete participation in military structures; on Switzerland's participation in the Sky Shield air defense system, see *Christof Forster*, Die Schweiz geht einen Schritt auf die Nato zu, in: *Schweizer Revue: Das Magazin für Auslandschweizer*, Volume 50, 5/2023, p. 23; on Switzerland's neutrality in the event of NATO membership, see *Ulrich F. Zwygart*, Natoisierung Europas – und die Schweiz?, in: *Schweizer Monat: The authors' magazine for politics, economics, and culture*, Volume 102, 2022, pp. 85-87; on Switzerland's armed neutrality, see also *Fritz Kälin*, Ein neuer Krieg stellt alte Fragen an die bewaffnete Neutralität, in: *ASMZ* Volume 189, 2/2023, pp. 4-7.

The neutrality of a state, especially permanent neutrality, is based very strongly on its autonomy and sovereignty. It avoids legal commitments that contradict neutrality or terminates such commitments in the event neutrality is to be applied. This works without any problems at the coexistence level and largely at the cooperation level. The situation is different with regard to the level of integration, which is usually institutionally anchored and aimed precisely at curtailing national sovereignty in favor of joint bodies with independent powers. This does not mean a complete surrender of sovereignty, but rather its significant downgrading to a guarantee of autonomy determined by integration law with residual sovereignty, insofar as this is not covered by integration efforts. However, as soon as integration relates to external security, there is little room for the application of neutrality law. This requires a genuine reservation in favor of neutral states, insofar as this is compatible with the goals of institutionalized integration. However, this results in asymmetries regarding the obligations associated with integration rights, in such a way that the neutral state appears to be a non-solidary maverick that benefits from joint security arrangements while selfishly pursuing its own interests. Nothing remains of the original idea of neutrality, namely the limitation of war and the protection of islands of peace in the interests of regional stability. It therefore has been rightly stated that neutrality has dysfunctional effects in an integrated community of states.⁹¹

6. Conclusion: What remains of neutrality

Neutrality has repeatedly been the subject of fierce criticism: after the First World War as a result of the League of Nations' new system of collective security;⁹² after the Second World War; and more recently in connection with Russia's war against Ukraine, although opinions are divided on this issue, including in this volume: For some, this conflict shows that neutrality has

⁹¹ *Adrian R. Schaub*, (note 58), pp. 108

⁹² *Jamal El-Zein*, (note 2), pp. 55. with references to contemporary authors who argue that neutrality is incompatible with the system of collective security.

become irrelevant,⁹³ while others see it as gaining political significance.⁹⁴ The fact is, however, that there are regular publications predicting the end of neutrality. A recent dissertation on international law simply states the death of the law of neutrality.⁹⁵ However, it must be noted that those declared dead sometimes live longer than expected. This also applies to neutrality. The war in Ukraine has at least led to a resurgence of the neutrality debate, to attempts at self-assurance based on a traditional understanding of neutrality, but also to criticism of neutrality.⁹⁶

A sober analysis of the development of the international legal order against the backdrop of the three layers of international law described above reveals an obvious, but in view of the development of the international system, logical, inevitable, and unsurprising decline of neutrality. Neutrality is a product of classical international law, i.e., the law of coexistence in its traditional form, not yet modified by the law of cooperation. As a result, the law of neutrality experienced its heyday until the First World War, culminating in the Hague Codifications of Neutrality of 1907. Neutrality meant limiting war, which was permissible, protecting neutral states, providing certainty for the belligerent states, and ensuring regional stability despite war. In this respect, neutrality was in the interest of all.

Under the law of cooperation, the concept of a collective security system in particular poses a challenge to neutrality and the law of neutrality – both under the Covenant of the League of Nations and under the UN Charter. Collective security means, to a certain extent, the *communitarization of national competences in defense and security policy in international institu-*

93 See the critical discussion in various articles in this volume. *Ralph Janik* states: "Legally, neutrality has been dead for a good 80 years, and strictly speaking, it will soon be 100 years.; Janik (note 18) p. 308. On Switzerland's departure from classical neutrality, see *Daniel Woker*, Russia's War of Aggression in Ukraine as the Final End of Swiss Neutrality in Europe, in this volume; differentiating between permanent and situational war neutrality, see *René Rhinow*, (note 23) *passim* on the criticism of Switzerland's practice of neutrality, *Markus Mohler* (note 46) *passim*.

94 See the notes by *Ralph Janik*, (note 18) p. 310 and *Ulrike Haider-Quercia*, (note 87) pp. 337.

95 See *Jamal El-Zein*, (note 2), *passim*.

96 See also *Ralph Janik*, (note 18) pp. 302 ("Neutrality after February 24, 2022: legal end and (political) comeback?"); for a critical examination of Swiss neutrality in the Ukraine war, see also *Markus Mohler*, Neutralität mit Verfallsdatum bei Kriegsmaterial? Statt dessen: UNO-Charta konformer Vorschlag, in: *Jusletter* of March 3, 2025, p. 6; on arms deliveries to Ukraine and their compatibility with the law of neutrality, see *Stefanie Schmahl*, Völker- und europarechtliche Implikationen des Angriffskriegs auf die Ukraine, in: *NJW* 2022, p. 973.

tions. At the same time, states are deprived of the right to wage war. This is replaced by international mechanisms for inter-state dispute resolution and, in general, the desire to curb the use of military force, not only in inter-state conflicts but also in internal conflicts.⁹⁷ This reveals the main problem of neutrality as a set of norms under international law: the prohibition of force undermines the central basis and premise of neutrality. The right to collective security in the service of the prohibition to use force takes precedence over the right to neutrality and renders it largely irrelevant, even if collective security does not function properly. In general, the system of collective security and the numerous regional and global crisis and conflict management activities of the UN and regional organizations make neutrality a marginal phenomenon: with functioning global and regional security institutions, there is no need for neutrality. Nor is the label of "neutrality" necessary for indifference to third-party conflicts, provided that no generally applicable sanctions are imposed, or for mediation activities. Neutrality can only (re)emerge if the system does not function or does not function fully. In this respect, it can have a niche existence in exceptional situations but remains in a precarious position because it is questionable whether it will produce meaningful results for the international community. Especially in the form of permanent neutrality, it becomes an *exceptionalist position that demands recognition, consideration, and understanding from the international community* without any visible advantages for the latter, especially since incompatibilities with cooperation and integration law repeatedly arise, which are challenging for the very few remaining neutral states: this applies, for example, to the application of the principle of equal treatment or the prohibition of discrimination in armed international conflicts that violate international law and have a clearly identifiable aggressor. When is the aggressor clearly identified? What are the requirements for multilateral support for such a determination? Does the prohibition of discrimination then mutate into an obligation to discriminate? Is the indirect

97 Thomas Fischer, Die Grenzen der Neutralität. Schweizerisches KSZE-Engagement und gescheiterte UNO-Beitrittspolitik im Kalten Krieg, 1969–1986, in: Schweizer Beiträge zur internationalen Geschichte – Contributions suisses à l'histoire internationale, Volume 7, Zurich 2004, p. 129; Alois Riklin, Checkliste zur Neutralität der Schweiz, in: ASMZ, Volume 188, 9/2022, p. 16 ff.; Andreas Barz, Das Ende der Neutralität, Die neutralen Staaten im Wandel der Weltpolitik, in: APuZ 1992, Volume 47-48, p. 3-11; Barbara Haering/Peter Hug, Zur Neutralität der Schweiz im 21. Jahrhundert, in: ASMZ 2007, Volume 173, 2/2007; Hugo Bütler: Neutralität am Ende?, in: Zur Diskussion gestellt: Bewaffnete Neutralität heute, Frauenfeld 1992, pp. 57-64.

or direct supply of war material or the transfer of war-related information permissible? Does the right to collective self-defense under Article 51 of the UN Charter imply that a neutral party may also provide military support to the victim of aggression? One of these questions can be answered relatively clearly: a neutral party may not provide direct military support to the victims of aggression, i.e., participate in combat operations. The rest is unclear: questions, nothing but questions.

Almost all international conduct that claim neutrality as their basis can be supported by traditional principles of international law, namely sovereignty, the prohibition of intervention, and the prohibition of the use of force. *In contrast, references to neutrality end up in a semantic cage* from which there is hardly any escape, obscuring the actual problems and leading to irrational discourse. Instead of reflexively invoking neutrality, whose apparent, normatively bound lack of alternatives often fails to produce clear, comprehensible answers to problems, the freedom of action gained without neutrality should be used in the sense of interest- and value-guided individual but also internationally coordinated policies within the framework of the relevant institutions, to ensure peace, contain and resolve armed conflicts, and enforce central norms of the international system. This is clearly more effective than shadow boxing with meaningless terms.

The conclusion is therefore clear: very little to almost nothing remains of the right to neutrality. It does contain, particularly in the form of the 1907 Neutrality Conventions, a stock of standardized options for action that individual states or groups of states can follow in specific cases. However, these courses of action are not mandatory and do not stem from any overarching concept, but they do have the advantage of being historically proven. They can be considered by states within the framework of sovereign decisions in specific conflict situations. However, this does not require the term neutrality. Under these circumstances, neutrality can at best exist as a legal niche.

This is a particular problem for states that see themselves as permanently neutral. They are in the process of losing part of their identity and their foreign policy orientation. The law of neutrality may then play a role, albeit a very minor one, if in a specific case the Security Council is unable to take the necessary measures, usually because of a veto. The specific effects are limited to the fact that the neutral state is prohibited from supporting the attacking and attacked states militarily or with war material. In addition, there are more symbolic actions such as the refusal of overflight or transit

rights. This does not win any friends: depending on the circumstances, it is seen as a lack of solidarity with a victim of aggression and the states supporting it, or even as taking sides with the aggressor. For permanently neutral states, this residual right to neutrality acts as a *normative straitjacket that* does not allow for *any consideration of the circumstances and thus* does not permit *any policy tailored to the specific situation*. At the same time, the stability- and peace-securing aspect of neutrality is not apparent. States that are not legally neutral do not have these problems. They can take ad hoc measures that they deem appropriate or take no action at all, depending on the circumstances and in accordance with their sovereign rights. This includes stopping or, on the contrary, expanding the supply of war material, granting or denying overflight and transit rights. Neutrality is not needed as a justification.

We must see things as they are: neutral states are a very small minority. There are very few classic cases of neutrality left, the scope of application of neutrality law has become very small, and more and more textbooks on international law do not (or no longer) deal with neutrality, or only very briefly at the end – as a kind of reminiscence of a formerly relevant set of international law norms.⁹⁸ It has become a *niche concept of declining importance*. As far as can be seen, there are no discussions of neutrality in Africa, Asia, or Oceania, and only very marginally in North and South America. Forty-five years ago, Dietrich Schindler argued that the law of neutrality was now practically only a right of permanently neutral states⁹⁹ –

98 The third edition of the work by Verdross, *Alfred Verdross/Bruno Simma*, *Universelles Völkerrecht. Theorie und Praxis*, 1984, deals only very briefly with permanently neutral states, §§ 400–403 in the section on subjects of international law, without going into further detail on the law of neutrality; The fifth edition of *Andreas von Arnault's* textbook, *Völkerrecht*, fifth edition 2023, deals with the topic of neutrality sporadically in the context of the law of armed conflict, paras. 1209–1215. The 8th edition, Munich 2024, of *Völkerrecht* by *Knut Ipsen* contains comments on neutral states in the section on subjects of international law, § 7, margin numbers 145–148, and on the law of neutrality, § 66. In the 8th edition of 2019, *Völkerrecht* by Wolfgang Graf Vitzthum/Alexander Proelß (eds.), *Michael Bothe* discusses neutrality in the section on peacekeeping and martial law, p. 854 ff.; Akehurst's *Modern Introduction to International Law?*, by *Alexander Orakhelashvili*, 9th edition, London 2022, contains a short section on "Law of neutrality," pp. 534–537.

99 *Dietrich Schindler*, *Die Lehre von den Vorwirkungen der Neutralität*, in: *Festschrift für Rudolf Bindschedler zum 65. Geburtstag* 1980, p. 573; on permanently neutral states, based on Verdross *Julia Schreiner*, *Neutralität nach „Schweizer Muster?“*, *Österreichische Völkerrechtslehre zur immerwährenden Neutralität, 1955–1989*, Baden-Baden 2018, p. 44.

of which there are fewer and fewer. The days of a universally applicable law of neutrality are therefore probably numbered.

*As a concept and a vague description of possible courses of action, neutrality will continue to exist, stripped of its basis in international law.*¹⁰⁰ In this context, it is also conceivable to take the traditional Hague Conventions as a guide, if this makes sense and is appropriate. However, this is not done out of an awareness of a legal obligation, but pragmatically to decide practical questions.

Bibliography

- Antonopoulos, Constantine, *Non-Participation in Armed Conflict: Continuity and Modern Challenges to the Law of Neutrality*, Cambridge: Cambridge University Press 2022.
- Barz, Andreas, Das Ende der Neutralität, Die neutralen Staaten im Wandel der Weltpolitik, in: APuZ 1992, Band 47-48, S. 3-11.
- Bothe, Michael, Neutrality, Concept and General Rules, in: MPEPIL 2015, Rn. 1-103.
- Bothe, Michael, Friedenssicherung und Kriegsrecht, in: Wolfgang Graf Vitzthum / Alexander Proelß (Hrsg.), *Völkerrecht*, Berlin: De Gruyter, 8. Auflage 2019, S. 755-874.
- Breitenmoser, Stephan, Föderalismus und Internationalisierung, in: *Verfassungsrecht der Schweiz, Band I: Grundlagen Demokratie Föderalismus*, in: Oliver Diggelmann / Maya Hertig Randall / Benjamin Schindler (Hrsg.), Zürich: Schulthess, 2020, S. 639-666.
- Burckhardt, Peter / Lumengo, Paka Nina, Die Russland-Sanktionen der Schweiz, in: RIW 2022, S. 266 ff-274.
- Bußjäger, Peter, Die Neutralität, die NATO und der Demos – Reflexionen über den Rang der Neutralität und eines allfälligen NATO-Beitritts in der Normenhierarchie der Bundesverfassung, in: ÖZP Band 53, 2024, S. 1-7.
- Bütler Hugo, Neutralität am Ende?, in: *Zur Diskussion gestellt: Bewaffnete Neutralität heute*, Frauenfeld 1992, S. 57-64.
- Clancy, Pearce, Permanent Neutrality and the UN Security Council, in: *Irish Studies in International Affairs*, Band 32, 2021, S. 241–259.
- Cottier, Thomas, Kosten des konservativen schweizerischen Souveränitätsverständnisses, in: Thomas Cottier / André Holenstein (Hrsg.), *Die Souveränität der Schweiz in Europa. Mythen, Realitäten und Wandel*, Bern: Stämpfli Verlag AG, 2021, S. 211-231.
- Cottier, Thomas, Der Ukraine-Krieg: Wendepunkt in den Beziehungen der Schweiz zur Europäischen Union und zur NATO?, in: SRIEL 2022, S. 547-555.
- Cottier, Thomas, Die Kernfrage der Neutralitätsdebatte, in: NZZ Nr.160 vom 12.07.2024, S. 18.

100 Similar conclusions are drawn by Ralph Janik, (note 18) p. 310.

- Cottier, Thomas, *Neutrality, Trade in Implements of War and the Prohibition of Force – From equal treatment of belligerents to the protection of human rights, democracy and the rule of law*, pp. 233 in diesem Band.
- Dahinden, Martin, *Schweizerische Sicherheitspolitik im internationalen Kontext von 1815 bis heute: Eine Skizze*, Zürich: EIZ Publishing, 2025
- Descamps, Philippe, *Neutralität, eine Waffe für den Frieden*, in: *Le Monde diplomatique* vom 07.04.2022.
- Diebold, Nicolas F. / Tanner, Anne-Cathrine, *WTO-Recht und regionale Integration*, in: *SRIEL* 2019, S. 173-201.
- Egli, Patricia / Holzgang, Milena, *Neutralitätsrecht und Neutralitätspolitik, Ein Überblick*, in: *AJP* 2022, S. 600-611.
- El-Zein, Jamal, *Das Ende des Neutralitätsrechts*, Kölner Schriften zum Friedenssicherungsrecht Band 26, Diss. Köln: Nomos, 2024.
- Epiney, Astrid / Kläui, David / Dukarm, Sophie, *Die Neutralität der Schweiz - status quo und Perspektiven*, in: *ZSR*, Band 144, 2025, II, S. 5-94, *Schweizerischer Juristentag 2025 – Rechtliche Herausforderungen für die Schweiz im Spannungsfeld bewaffneter Konflikte*.
- Farquet, Christophe, *Neutral Paradoxes. Switzerland and the Allies at the Beginning of the Second World War*, in: *Diplomacy & Statecraft*, Bd. 35 4/2024, S. 605–630.
- Fassbender, Bardo, Heinrich Triepel und die Anfänge der dualistischen Sicht von „Völkerrecht und Landesrecht“ im späten 19. Jahrhundert, in: Lukas Gschwend / Peter Hettich / Markus Müller-Chen / Benjamin Schindler / Isabelle Wildhaber (Hrsg.), *Recht im digitalen Zeitalter*, Festgabe Schweizerischer Juristentag 2015 in St. Gallen, Zürich/St. Gallen: Dike, 2015, S. 449-469.
- Fischer, Thomas, *Die Grenzen der Neutralität. Schweizerisches KSZE-Engagement und gescheiterte UNO-Beitritts politik im Kalten Krieg, 1969–1986*, in: *Schweizer Beiträge zur internationalen Geschichte – Contributions suisses à l'histoire internationale*, Band 7, Zürich: Chronos, 2004.
- Forster, Christof, *Die Schweiz geht einen Schritt auf die Nato zu*, in: *Schweizer Revue: Die Zeitschrift für Auslandsschweizer*, Band 50, 5/2023, S. 23.
- Frick, Gotthard, *Das Ende der Schweizerischen Neutralität?*, in: *ASMZ*, Band 179, 07/2013, S. 10-11.
- Friedmann, Wolfgang, *The Changing Structure of International Law*, Calcutta: The World Press Private LTD, 1960.
- Furger, David, *Due Diligence bei der Waffenausfuhr genehmigung. Zu den völkerrechtlichen Anforderungen an die nationale Kriegsmaterialkontrolle*, in: *Sicherheit & Recht*, 3/2018, S. 171-184.
- Gabriel, Jürg Martin, *Die Gegenläufigkeit von Neutralität und humanitären Interventionen*, in: *SZIER* 2000, S. 219-236.
- Gill, Terry D. / Tibori-Szabó, Kinga, *The Use of Force and the International Legal System*, Cambridge University Press, Cambridge: Cambridge University Press, 2024.
- Gillibert, Matthieu / Milani, Pauline, *Communicating neutrality: public diplomacy by neutral states at the beginning of the Cold War in: European Review of History: Revue Européenne d'histoire*, Band 27, 5/2020, S. 628–650.

- Gornig, Gilbert, *Völkerrecht*, München: C. H. Beck, 2023.
- Graf, Priska Seiler / Lang, Jo / Leissing, Anna, Wie geht Friedenspolitik in der Schweiz?, in: *Neue Wege, Beiträge zu Religion und Sozialismus*, Band 115, 2021, S. 11-18.
- Grewe, Wilhelm G., *Epochen des Völkerrechtsgeschichte*, Berlin: De Gruyter, 1988.
- Grotius, Hugo, *De Jure Belli ac Pacis Libris Tres*, Paris 1625, in der Übersetzung von Walter Schätzel, Tübingen: Textor Verlag, 1950.
- Guggenheim, Paul, *Völkerbund, Dumbarton Oaks und die schweizerische Neutralität*, New York: Europa Verlag, 1945.
- Haering, Barbara / Hug, Peter, Zur Neutralität der Schweiz im 21. Jahrhundert, in: *ASMZ* 2007, Band 173, 2/2007, S. 2-3.
- Haider-Quercia, Ulrike, Neutrality in the European context: Constitutional perspectives of Ireland and Malta pp. 337 in diesem Band.
- Hasler, Dirk, Das Recht der staatlichen Selbstverteidigung: von der zulässigen Ausnahme zur rechtswidrigen Regel?, in: *Sicherheit und Frieden*, 1/2006, S. 33-37.
- Hilpold, Peter, *Die EU im GATT/WTO-System, Aspekte einer Beziehung „sui generis“*, 4. Auflage, Wien: Facultas 2019.
- Hilpold, Peter, Das Neutralitätsrecht Österreichs und der Schweiz im „weiten Feld“ des internationalen Rechts, Aktuelle Entwicklungen im Vergleich, in: *AVR* 60/2022, S. 268-287.
- Hilpold, Peter, The right to neutrality at a crossroads: The situation in Austria and Switzerland from the perspective of international law, European law and constitutional law pp. 22 in diesem Band.
- Hostettler, Peter / Danai, Olivia, Neutrality in Land Warfare, in: *MPEPIL* 2015, Rn. 1-28.
- Hummer, Waldemar, Die neue EU als „Militärpakt“ Solidarität – Neutralität – „irische Klausel“, in: *EuZ* 2005, S. 2-6.
- Ingber, Rebecca, The abuse of neutrality, in: *Virginia Journal of International Law*, Band 65, 2025, S. 438-492.
- Ipsen, Knut, *Völkerrecht*, 8. Auflage, München: C.H.Beck, 2024.
- Isak, Hubert, GSVP und Irische Klausel: Neutrale Mitgliedstaaten – Lösung oder Problem?, in: *Sicherheit & Frieden*, Band 36, 4/2018, S. 186-190.
- Jaag, Tobias / Hänni, Julia, *Europarecht, Die europäischen Institutionen aus schweizerischer Sicht*, Genf: Schulthess, 5. Auflage 2022.
- Jandl, Gerhard, 20 Years of Austrian Partnership with Nato – Record and Outlook, in: *Politorbis*, Nr. 61: Schweizer Partnerschaft mit der Nato 1/2016, S. 75-80.
- Jandl, Gerhard, Die Neutralität (erneut) als Identitätsmerkmal, in: *Wiener Blätter zur Friedensforschung*, Vierteljahresschrift des Universitätszentrums für Friedensforschung (UZF), Nr. 170, März 1/2017, S. 17-22.
- Jandl, Gerhard, Die gemeinsame europäische Verteidigung – was ist sie, und wenn ja, wie viele?, in: *Sicherheit und Frieden* 4/2018, S. 171-180.
- Janik, Ralph, Neutralität 2023: Verfassungs- vs. Völkerrecht? Von Einheit zum Widerspruch, in: *ZöR* 2024, S. 347-367.

- Janik, Ralph, „Neutralität schadet Österreich zunehmend“, in: Salzburger Nachrichten vom 31.07.2025, S. 2.
- Janik, Ralph, The Return of Neutrality, pp. 277 in this volume
- Jorio, Marco, Die Schweiz und ihre Neutralität. Eine 400-jährige Geschichte, Zürich: Hier und Jetzt Verlag für Kultur und Geschichte, 2023.
- Kälin, Fritz, Ein neuer Krieg stellt alte Fragen an die bewaffnete Neutralität, in: ASMZ Band 189, 2/2023, S. 4-7.
- Kämmerer, Jörn A., in Alexander Proelß (Hrsg.), Völkerrecht, 9. Auflage, Berlin/Boston: De Gruyter, 2024.
- Kau, Marcel, Der Staat und der Einzelne als Völkerrechtssubjekte, in: Wolfgang Graf Vitzthum / Alexander Proelß (Hrsg.), Völkerrecht, Berlin: De Gruyter, 8. Auflage 2019, S. 159-318.
- Kienzi, Cécile, Schweizer Neutralitätspolitik, eine Quadratur des Kreises?, in: Schweizer Soldat, Band 98, 12/2023, S. 34-35.
- Kleinlein, Thomas, Konstitutionalisierung im Völkerrecht - Konstruktion und Elemente einer idealistischen Völkerrechtslehre, Beiträge zum ausländischen öffentlichen Recht und Völkerrecht, Band 231, Heidelberg: Springer, 2012.
- Krafft, Mathias-Charles / Thürer, Daniel / Stadelhofer, Julie-Antoinette, Switzerland, in: Vera Gowlland-Debbas (Hrsg.), National Implementation of United Nations Sanctions, A Co-operative Study, Leiden/Boston: Martinus Nijhoff Publishers, 2004.
- Kühne, Daniela, Materielle Konstitutionalisierung im Völkerrecht - Zum Entstehen einer internationalen Verfassungsordnung, Zürich: Schulthess, 2014.
- Lieb, Peter, Völkerrecht und Verbrechen in europäischen Kriegen des 20. Jahrhunderts, in: Jörg Echternkamp / Hans-Hubertus Mack (Hrsg.), Geschichte ohne Grenzen? Europäische Dimensionen der Militärgeschichte vom 19. Jahrhundert bis heute, 2. Auflage, Berlin: De Gruyter, 2025.
- Lottaz, Pascal, Im neuen Kalten Krieg ist die Schweiz Konfliktpartei, in: Schweizer Monat: die Autorenzeitschrift für Politik, Wirtschaft und Kultur, Band 102, 2022, S. 67-69.
- Mohler, Markus, Neutralität mit Verfallsdatum bei Kriegsmaterial? Stattdessen: UNO-Charta konformer Vorschlag, in: Jusletter vom 03. März 2025, S. 1-21.
- , Markus, The Swiss mixing of neutrality policy and neutrality law – An analysis using the example of Russia's war of aggression against Ukraine and the relationship between neutrality and international humanitarian law, pp. 87 in diesem Band.
- Münch, Fritz, Die Koexistenz im Völkerrecht, in: Vereinte Nationen, Heft 6/1964, S. 207-209.
- Nef, Robert, Die bewaffnete Neutralität ist ein Friedensangebot, in: Schweizer Monat: die Autorenzeitschrift für Politik, Wirtschaft und Kultur, Band 102, 2022, S. 59-60.
- Orakhelashvili, Alexander, Akehurst's Modern Introduction to International Law?, von 9. Auflage, London 2022, enthält einen kurzen Abschnitt zu "Law of neutrality", S. 534-537.
- Payandeh, Mehrdad, Rechtskontrolle des UN-Sicherheitsrates durch staatliche und überstaatliche Gerichte, in: ZaöRV 66/2006, S. 41-71.

- Peter, Theodora / Jorio, Marco, In Europa herrscht Krieg - und die Schweiz ringt um ihre Neutralität, in: *Schweizer Review*, die Zeitschrift für Auslandsschweizer, Band 49, 6/2022, S. 5-7.
- Peters, Anne, Konstitutionalismus als globale Errungenschaft, in: Jost Delbrück / Ursula Heinz / Kerstin Odendahl / Nele Matz-Lück / Andreas von Arnould (Hrsg.), *Aus Kiel in die Welt, Kiel's Contribution to International Law*, Festschrift zum 100-jährigen Bestehen des Walther-Schücking-Instituts für Internationales Recht, Berlin: Duncker & Humblot, 2014, S. 127-138.
- Peters, Anne, International Law and its Scholarship in the Time of Monsters. Max Planck Research Paper Series 2025-05, 06. Mai 2025, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5242721
- Peters, Anne / Petrig, Anna, Völkerrecht, 6. Auflage, Genf: Schulthess, 2023.
- Petersen, Dirk, Der Tiefseebergbau: Eine umweltvölkerrechtliche Baustelle. Eine Einführung in ein junges Rechtsgebiet, in: *ZJS* 4/2019, S. 257-263.
- Petrig, Anna, Die Schweiz im UNO-Sicherheitsrat, in: *BJM* 2023, S. 39-69.
- Petrig, Anna, Die Vereinbarkeit von Sanktionen mit der Schweizer Neutralität, in: *ZSR/RDS* Band 143 I, 4/2024, S. 413-440.
- Proelß, Alexander, in Alexander Proelß (Hrsg.), *Völkerrecht*, 9. Auflage, Berlin/Boston: De Gruyter, 2024.
- Rhinow, René, Permanence as a unique feature – Switzerland and its policy of neutral pp. 70 in diesem Band.
- Riklin, Alois, Checkliste zur Neutralität der Schweiz, in: *ASMZ*, Band 188, 9/2022, S. 16-21.
- Rodriguez, Manuel, Das Neutralitätsrecht und das umfassende Gewaltverbot gemäss Art. 2 Abs. 4 UNO-Charta. Ansätze einer Lösung des Spannungsverhältnisses zwischen dem Neutralitätsrecht und dem System der kollektiven Sicherheit unter besonderer Berücksichtigung der Schweizer Neutralität und vor dem Hintergrund des russischen Angriffskriegs gegen die Ukraine, Basel: Helbing Lichtenhahn Verlag, 2024.
- Sassòli, Marco, Neutralität gibt's nicht à la carte, in: *Schweizer Monat: die Autorenzeitschrift für Politik, Wirtschaft und Kultur*, Band 102, 2022, S. 65-66.
- Scarpelli, Samuele, Wirtschaftssanktionen gegen private Personen. Verfahren und Rechtsschutz in der Europäischen Union und in der Schweiz unter besonderer Berücksichtigung der Rolle und Befugnisse des UN-Sicherheitsrates im Rahmen der Terrorismusbekämpfung Zürich/St. Gallen: Dike, 2015.
- Schaub, Adrian R., Neutralität und Kollektive Sicherheit. Gegenüberstellung zweier unvereinbarer Verhaltenskonzepte in bewaffneten Konflikten und These zu einem zeit- und völkerrechtsgemässen *modus vivendi*, Diss. Univ. Basel, Basel/Frankfurt a.M.: Helbing & Lichtenhahn, 1995.
- Schindler, Dietrich, Die Lehre von den Vorwirkungen der Neutralität, in: Festschrift für Rudolf Bindschedler zum 65. Geburtstag 1980, S. 563-584.

- Schindler, Dietrich M., Völkerrecht, Neutralität und Menschenrechte/Dauernde Neutralität (1975), in: Benjamin Schindler / Daniel Thürer (Hrsg.), *Gemeinwesen zwischen Tradition und Weltoffenheit, Ausgewählte Schriften von Dietrich Schindler (1924-2018)*, Zürich/Genf, Schulthess, 2024.
- Schindler, Dietrich M., III Völkerrecht, Neutralität und Menschenrechte/Fragen des Neutralitätsrechts im Zweiten Weltkrieg (2001), in: Benjamin Schindler / Daniel Thürer (Hrsg.), *Gemeinwesen zwischen Tradition und Weltoffenheit, Ausgewählte Schriften von Dietrich Schindler (1924-2018)*, Zürich/Genf, Schulthess, 2024.
- Schmahl, Stefanie, Völker- und europarechtliche Implikationen des Angriffskriegs auf die Ukraine, in: *NJW* 2022, S. 969-1048.
- Schmid, Evelyne, Optional but not qualified: Neutrality, the UN Charter and humanitarian objectives, in: *International Review of the Red Cross*, 2024, S. 1044-1064.
- Schmid, Evelyne, Stillsitzen und Wegschauen ist nicht mehr zeitgemäss, in: *NZZ* Nr. 143 vom 24.06.2025, S. 18.
- Schnyder, Matthias, Das schweizerische Konsularwesen im 19. Jahrhundert, *Politorbis, Zeitschrift für Aussenpolitik* No. 36, 2/2004, S. 5-68.
- Schreiner, Julia, Neutralität nach „Schweizer Muster?“, *Österreichische Völkerrechtsschleure zur immerwährenden Neutralität, 1955–1989*, Baden-Baden: Nomos, 2018.
- Senn, Martin, Eine Debatte über Österreichs Neutralität: Warum sie notwendig ist und wie sie geführt werden sollte, in: *ÖZP*, Band 53, 2024, S.1-12.
- Senti, Richard, Zukunft der WTO, *EuZ* 2020, S. 56-71.
- Streinz, Rudolf, *Europarecht*, 12. Auflage, Heidelberg: C.F.Müller, 2023.
- Stürchler, Nikolas, Der Begriff des Krieges im Völkerrecht: Spezifisch unter dem Gesichtspunkt des Neutralitätsrechts, in: *SZIER* 2011, S. 627-645.
- Tanner, Jakob, *Die schweizerische Neutralität – ein Anachronismus*, Berlin: Geschichte der Gegenwart, 2023.
- Thomann-Reber, Fabiane, Die Kündigung völkerrechtlicher Verträge unter besonderer Berücksichtigung der schweizerischen Rechtslage und Praxis, in: *ASR*, Band 841, 2024.
- Villiger, Mark E., 2. Teil – Zur Neutralität im Allgemeinen, in: Mark E. Villiger, *Handbuch der Schweizerischen Neutralität*, Zürich 2023, S. 9-35.
- Villiger, Mark E., *Handbuch der schweizerischen Neutralität*, Zürich: Schulthess, 2023.
- von Arnould, Andreas, *Völkerrecht*, Heidelberg: C.F.Müller, 5. Auflage 2023.
- von Heinegg, Heintschel, Benevolent Third States in International Armed Conflicts: the Myth of the Irrelevance of the Law of Neutrality, in: *International Law and Armed Conflict: Exploring the Faultlines, Essays in Honour of Yoram Dinstein*, in: Brill/Nijhoff 2007, S. 543-568.
- von Sprecher, Jann, Als die Schweiz zur integralen Neutralität zurückkehrte, in: *Schweizer Monat: Die Autorenzeitschrift für Politik, Wirtschaft und Kultur*, 2022, S. 61-64.
- von Verdross, Alfred, *Völkerrecht*, Berlin: Springer, 1937.
- von Verdross, Alfred, *Völkerrecht*, Wien: Springer, 1950.

- Verdross, Alfred / Simma, Bruno, *Universelles Völkerrecht. Theorie und Praxis*, Berlin: Duncker & Humblot, 3. Auflage 1984.
- Wallenstein, Peter / Grusell, Helena, "Targeting the Right Targets? The UN Use of Individual Sanctions," *Global Governance* 18/2012, S. 207–230.
- Wallenstein, Peter / Johansson, Patrik, *The UN Security Council: Decisions and Actions*, in: Sebastian von Einsiedel / David M. Malone / Bruno Stagno Ugarte (Hrsg.), *The UN Security Council in the Twenty-First Century*, London 2016, S. 27–54.
- Weber, Nadir, *Lokale Interessen und große Strategien. Das Fürstentum Neuchâtel und die politischen Beziehungen der Könige von Preußen (1707-1806)*, Köln/Weimar/Wien 2015, S. 13–62.
- Weismann, Paul, *Jüngere Entwicklungen im WTO-Recht*, RIW 2021, S. 549–558.
- Woker, Daniel, in diesem Band.
- Zwygart, Ulrich F., *Natoisierung Europas – und die Schweiz?*, in: *Schweizer Monat: Die Autorenzeitschrift für Politik, Wirtschaft und Kultur*, Band 102, 2022, S. 85–87.