

# Public International Law

## soft law

John Palmer

Class 6: February 17, 2011

# Helsinki, 1975



Bundesarchiv, Bild 146-1000-000-13  
Foto: o. Ang. | 1975

## CIL vs. soft law

What is the difference between custom and soft law?

# Soft law vs. law

Is soft law law?

What makes law law?

## Soft law and legitimacy

Is soft law just a way for the executive to bypass the legislature?

Are there circumstances in which that might be desirable?

# Characterizing law-making instruments

Reisman & Abbott look to:

- ▶ precision
- ▶ authoritativeness
- ▶ enforceability

Should we add anything else?

## Expressions with social effects

Compare the statement, “don’t torture,” as expressed in:

- ▶ a comment to a friend
- ▶ a tweet
- ▶ a sign held up at a protest
- ▶ the joint statement issued by a group of NGOs
- ▶ the Universal Declaration of Human Rights
- ▶ customary international law
- ▶ the Convention Against Torture
- ▶ a *jus cogens* norm
- ▶ Title 18 of the U.S. Code.

## Soft law in international vs. domestic contexts

Are there more reasons to worry about soft law in the international context?

Or are there more reasons to turn to it?



## Soft law for different problems

What is the difference between a coordination problem and a collaboration problem?

For which would you expect soft law to be more useful?

# World Bank Guidelines on FDI

Why would developing countries support these?

Why did the United States oppose them?

# World Bank Guidelines on FDI

What is the standard for compensation?

Who decides?

# World Bank Guidelines on FDI

What was the World Bank's objective?

Did it succeed?

# Scheduling...

Class on 24 March will end at 10:00 am.

Possible make-up times:

- ▶ Wednesday, 2 March, 12:00-13:00
- ▶ Thursday, 3 March, 08:00-09:00
- ▶ Thursday, 3 March, 12:00-13:00
- ▶ Friday, 4 March, anytime?
- ▶ Tuesday, 8 March, 08:00-09:00