

# **COMPLIANCE FOR FOXES**

## **COMPLIANCE THEORIES & THE BEHAVIOURAL TURN IN INTERNATIONAL LAW**

**Daniel Peat**

*Leiden University*

Compliance theories in international law have until now largely taken the State as their unit of analysis and rational choice as their underlying theory of behaviour. And, whilst certain theories have attempted to break open the ‘black box’ of the State, international lawyers have yet to grapple with findings from neighbouring fields which show that individuals rarely behave in the way that rational choice theories presume. This raises the question: how should international lawyers revise compliance theories in light of the ‘ugly facts’ that challenge the assumptions upon which they are based?

In this lecture, I argue that creating a ‘behavioural theory’ of compliance is neither possible nor desirable. Instead, international lawyers should adopt a multi-level theoretical approach to compliance that pursues analysis on two distinct levels. On the macro-level, international lawyers should provide institutional and structural explanations for State behaviour, using quantitative methodologies and case studies to ground their findings. On the micro-level, they should analyse the causal mechanisms that underpin compliance-related behaviour at the individual level, including exploring whether heuristics, biases, emotions, and other psychological factors, influence compliance, and, if so, how.

To demonstrate what adopting a multi-level approach could look like, I report in this lecture the preliminary findings of on-going qualitative empirical research on compliance with investment treaty awards by Argentina, Ecuador, and Venezuela, and sketch the consequences of these findings for compliance theory.