

The Evolution of Legal Norms in an Era of Globalisation

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This is part of a project on which I have been working for several years which examines the evolution of international legal norms since ancient times. The purpose of the research is, in essence, to ask how and why norms change over time. For example, for many years the central international legal norms revolved around the principles of sovereignty and non-intervention in a state's internal affairs, while the content of specific rules concerned areas like treaty law, the rights and immunities of diplomats (which was itself a reflection of sovereignty), title to territory, law of the sea and rules governing the initiation and conclusion of hostilities. Since the Second World War, and especially since the end of the Cold War, international law has concerned itself with a much wider range of subjects, some of which take it outside its traditional restriction to sovereignty-related areas. To list just a few examples, there are now well established legal regimes relating to human rights, the environment, war crimes and other international crimes, trade and other aspects of international economic relations, refugees and migrants and genocide. In some of these areas the development of legal regimes has not just included the enunciation of new norms but has been accompanied by the creation of new legal institutions, including various kinds of courts and formal arbitration and dispute settlement processes, such as the International Criminal Court and the World Trade Organisation's disputes settlement procedures.

None of these developments has taken place without considerable difficulty that has at times included serious challenges to the regimes themselves. This is most obviously the case in respect of the law of force. Attempts by Tony Blair and others to argue that the world is now governed by new legal principles permitting humanitarian intervention in cases of gross humanitarian abuses (which was part of the rationale behind NATO's Kosovo intervention) were never less than highly controversial and were opposed by several leading states, such as China and Russia. The American led invasion of Iraq was seen by many as involving a serious disregard for fundamental legal principles requiring Security Council legitimation for any such use of force. The current US government has resisted developments in environmental law as well as the establishment of the International Criminal Court. Many see terrorism as a new kind of threat that makes current international law much harder to implement and observe, to the extent that some argue it is irrelevant. The WTO has found it increasingly difficult to overcome fundamental disagreements among its members that may jeopardise its current regime.

In essence, my research is an attempt to understand and present in broader theoretical terms the factors underlying such developments. During my one month Mobility period in Ljubljana I shall be offering sixteen hours of seminars for graduate students and junior scholars on specific aspects of the research. These include detailed discussion of the arguments for and against the legality of the Iraq war and the consequences of that war for international law, the issues underlying the claim that the EU (which has by far the most fully developed legal regimes and institutions) represents a form of 'normative power' as against the United States' neoconservative and Realist arguments that only 'hard power' counts and the related, more general argument that a

form of 'soft law' has developed alongside 'soft power' that is of increasing importance. We will also consider some of the more serious challenges to international law in areas like the environment, refugees and migrants. I shall also be holding informal discussions with junior colleagues about their own research plans and possibilities for research collaboration.