



MAX PLANCK INSTITUTE
FOR COMPARATIVE PUBLIC LAW
AND INTERNATIONAL LAW

HUMBOLDT-
UNIVERSITÄT
ZU BERLIN



Workshop

Comparative International Legal Policy: National Political Approaches towards International Legal Order

5 - 6 June 2024, Harnack House, Berlin

Max Planck Institute for Comparative Public Law and International Law (MPIL)

Humboldt University of Berlin (HU)

Convened by Christian Marxsen (HU) & Malcolm Jorgensen (MPIL)

Call for Papers

A seeming consensus has developed that the international legal order is undergoing a period of significant disruption, yet few agreed indices have emerged for analysing the reality, form and magnitude of changes at a systemic level. This workshop on ‘comparative international legal policy’ seeks to improve understanding of contestation that extends beyond specific rules and institutions, by developing an account of differences and similarities in states’ policy approaches and perceived ‘roles’ towards the system of international law. Scholars in comparative international law, the politics of international law and global order, on the role of international legal advisers, International Relations (IR) and its subfield of foreign policy analysis—plus further relevant fields—are invited to submit papers for a Berlin workshop on states’ changing political approaches towards the international legal order.

Legal advisers and policymakers increasingly face questions that are not merely interpretive in nature, but require perspectives on the basic power and social relations to be enshrined in international law. This task encapsulates a critical tension at the heart of the international legal order: that its internal legitimacy depends on upholding the integrity of legal norms distinct from politics, yet its external legitimacy depends on the normativity of states’ political approaches towards the design and development of law. The re-emerging field of ‘comparative international law’ is among legal scholarship’s most notable attempts to account for resulting forms of difference, which include both variations in legal interpretation, as well as more profound divergences in states’ political approaches towards law. The concept of *international legal policy* (ILP) accordingly emerges as a potential bridge across interrelated fields, defined here as the specific type of foreign policy concerned with the conception of and strategies taken in relation to international legal rules and institutions.

The principle advantage of reframing research as *comparative international legal policy* is to facilitate an interdisciplinary reconsideration of legal scholarship’s blind spots, with foreign policy analysis into policymaker’s perceived national ‘roles’ offering a promising guide to non-legal approaches that are integral to the design and development of international law. Expressions of these intuitive role conceptions vary across national statements and include being: ‘an advocate of the rule of law, human rights and democratic freedoms’ (Germany); a ‘trusted mediator role, to be a bridge-builder’ (Singapore); ‘further developing international rules and norms, as well as a bridge-builder to bring together parties that hold different views’ (South Africa); a ‘good international citizen’ (Australia); ‘one of the influential sovereign centres of world development and civilization’ (Russia); participating in ‘reform and development of the global governance system’ (China); and playing an ‘enduring role’ as ‘the world’s leading power’ (United States). This workshop aims to identify and compare the roles that government policymakers seek to perform as both subjects and authors of international law, including shifts in those role conceptions, which offers a novel framework for observing change and continuity across the international legal order as a whole.

Key themes and questions to guide paper submissions and workshop discussion include the following:

- Identifying the dimensions of states' distinctive international legal policy approaches towards the interpretation, design and development of international legal order;
- Exploring how differences in power and social position within the legal order are reflected in ILP—e.g. whether policymakers develop international law to enable or constrain state action, including approaches to the deformalisation of law and legalisation/juridification of international relations;
- Comparing similarities and differences in ILPs according to further non-legal variables, including but not limited to: domestic political culture; legal tradition; geopolitical grouping; global south, developmental and postcolonial politics; cultural and 'civilisational' identity;
- The interdisciplinary value that foreign policy analysis can offer to international legal scholarship, including especially analysis of national 'role' conceptions in relation to international law;
- The scholarly advantages of further developing the field of comparative international law versus the potential risks that analysing forms of difference poses to the unity of international law;
- How policy approaches influence the development of international law across distinct regimes—e.g. international peace and security, human rights, environment, international trade and investment;
- The function and different understandings of political frames such as the 'liberal', 'rules-based' or 'multipolar' international order for national and transnational approaches towards international law;
- To what degree upholding the integrity of international legal order is endogenous to conceptions of the national interest, including whether legal advisers perceive these interests differently to non-lawyer counterparts.

The workshop convenors invite submissions from international law and IR scholarship, including especially those that promote interdisciplinary understanding of the policy dimensions of international legal practice. The workshop is designed to create direct engagement between the first-hand perspectives of decision-makers, hailing from diverse geographic regions and legal traditions, and scholars engaged in comparative secondary analysis of the ways these policymakers receive broader social factors shaping international law. Especially welcome are contributions that offer an account of international legal policy from a particular national, geopolitical or cultural perspective.

Submission Procedure

We invite abstract submissions of maximum 500 words, plus a 200 word biography, emailed to ilp@mpil.de by **15 January 2024**, with selected participants notified by 5 February 2024. Papers are to be submitted by 20 May 2024, for timely circulation and respondent preparation. We welcome both draft paper outlines (approximately 1,500-3,000 words), as well as fully-fledged papers (up to 10,000 words including references). Participants will be subsequently invited to revise their written contributions to incorporate workshop themes and discussions, as the foundation for further project events and a collaborative academic volume.

Organisation

The two-day workshop will take place between 5-6 June 2024 at Harnack House, the conference venue of the Max Planck Society, Ihnestrasse 16-20, 14195 Berlin. There is limited funding available to cover travel costs and accommodation for presenting participants. Please indicate whether you require funding when submitting your abstract. The workshop is part of the research project 'Tracking Systemic Change: Policies for Constructing International Legal Order' co-convened by Malcolm Jorgensen (jorgensen@mpil.de) and Christian Marxsen (christian.marxsen@hu-berlin.de), with updated information available via: <https://www.mpil.de/en/pub/research/areas/public-international-law/tracking-systemic-change/ilp.cfm>.

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