

APPLICATION FORM FOR PROSPECTIVE WORKSHOP DIRECTORS

If you wish to apply to direct a workshop at the Joint Sessions in Münster, Germany during 22-27 March 2010, please first see the explanatory notes, then complete this form, which will serve as the **cover sheet** for your workshop proposal. This form should be sent with your **workshop proposal** to the ECPR Central Services. You can do this by emailing both documents as an attached file (in word format .doc or rich text format .rtf) to the ECPR Central Services at ecpr@essex.ac.uk. Alternatively, you can print up the information and send it as a fax to the Central Services, fax: +44 1206 872500. **The deadline for applications is Sunday, 01 February 2009.**

Title of proposed workshop: Between Facts and Norms? International Legalization Research and International Political Theory

Subject area: International Political Theory, IR Theory, International Law, International Legalization

Abstract of proposed workshop. Maximum of 250 words (suitable for publication in the academic programme leaflet and on the ECPR web site):

The workshop rationale is based on the observation that IR research on international law and legalization does rarely intersect with international political theory (IPT). This lack of communication is to the detriment of both research strands. IPT's normative musings on global governance and order are often oddly detached from really existing international law and politics, while empirical research grapples with properly conceptualizing the normativity of international law. The goal of the workshop thus is to search for more convincing accounts of the relation between facts and norms both in empirical and normative research on international law. To this end it aims at furthering links between the research strands, as well as at strengthening the theoretical and practical role law plays in empirical and normative theories of global governance. Ultimately, it seeks to contribute to synthesizing empirical knowledge and normative considerations in political theories of international law. Thus, papers interpreting newest research results from empirical IR scholarship or trends in international law and international legal scholarship in terms of traditional and contemporary political theories of IR, or even developing new political theoretical approaches to international law are welcomed. We also seek papers confronting traditional and recent normative theories with empirical evidence aiming either at corroborating or improving their empirical assumptions in regard to international law. The efforts can also be supported by papers reflecting on the relationship of facts and norms in IPT and empirical research on international law and legalization on a meta-theoretical level.

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Please note that the information above is VERY important, as it will be used in all future correspondence and, if the proposal is successful, printed in the academic programme.

For further information, please contact:

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Between Facts and Norms?

International Legalization Research and International Political Theory

Outline of topic and relation to existing research

As every legal and political theory, also theories of international relations and international law have to come to terms with the tension between the facticity and normativity of political and legal structures. International Relations' (IR) foundational debate centred on this tension: Idealists hoped for the restructuring of the international system through law; Realists rejected this hope, because the normativity of international law could not be backed by effective sanctions. Asserting the ontological priority power over norms in international affairs, realists successfully emancipated IR from International Law as well as from Political Philosophy. With the rise of global governance, especially after the end of the Cold War, two broad trends in research brought IR again into contact with the other disciplines.

On the one hand, the relation between international politics and law more generally (e.g. Slaughter et al. 1998; Reus-Smit 2004; Armstrong et al. 2007), and legalization of international politics more specifically (e.g. Goldstein et al. 2001; Graubart 2004; Denemark/Hoffmann 2008; Helfer 2008; Zangl 2008) have become new and important research foci in mainstream IR. On the other hand Political Philosophy and IR are approaching each other again as is witnessed by a renewed interest in normative questions of international relations in Political Philosophy (Pogge/Moellendorf 2008) as well as in IR (Schmidt 2002; Reus-Smit/Snidal 2008).

However, the two trends rarely intersect. The lack of communication between the two is to the detriment of both. Neither has the growing IR mainstream research on law and legalization yet led to sustained attempts to make sense of its findings or to synthesize the empirical bits and pieces into more comprehensive political-theoretical accounts; nor do political-theoretical treatises on just or legitimate global governance or order establish sufficient links to the empirical findings about the relevance of law in international politics or to recent developments in international law.

Often, normative political theories fail to appreciate and accommodate for the variety and plurality of factual international political and legal structures, as well as to take into account the impediments to a normatively more desirable global order and governance. Their normative projections sometimes remain in the "wonderland" of abstract philosophy (Prager 1998 on Allott 1990), or are regarded as mere "fantasy theory" (Schweller 1999 on Linklater 1998). Sometimes their normativity does not keep pace with actual developments and thus merely establishes "rules for a vanished Westphalian world" (Buchanan 2000 on Rawls 2000), or offer a strangely detached "traditionalism" in a rapidly changing environment (Dunne 2001 on Jackson 2000). The more forward looking cosmopolitan approaches (e.g. Held 1995, Höffe 1999, Pogge 1994) often forget that their blueprints for a better order must be implemented in the real world and thus need to be connected to existing international law and politics.

On the side of empirical research some approaches (usually rationalist) to international law completely substitute facticity for the inherent normativity of international law and thus underestimate its empirical normative force. These political theories "do away with international law" and thus paradoxically cannot answer the question why actors invest time and resources in law in the first place (Aaken 2006 on Goldsmith/Posner 2005). Other approaches (usually constructivist) more sensitive to the role of norms,

however, remain pretty much *ad hoc* in their attempts to determine which norms matter and how, or what makes law distinctive and how precisely legalization should be understood (cf. Finnemore 2000; Finnemore/Toope 2001; Legro 1997). Neither constructivists nor rationalists, usually direct their research much at more practical questions or care about the practical consequences following from their research.

The goal of the workshop thus is to search for more convincing accounts of the relation between facts and norms both in empirical and normative research. To this end it aims at furthering links between normative and empirical research on the role of international law in international relations, as well as strengthening the theoretical and practical role law plays in empirical and normative theories of global governance. Ultimately, it seeks to contribute to synthesizing empirical knowledge and normative considerations in political theories of international law.

Participants

The workshop invites experts from both IR and Political Philosophy. Likely participants from IR would either be interested in international political theory or working at the intersection of international law and international politics, and seek to embed their empirical research on legalization in broader theoretical frameworks. From Political Philosophy scholars interested in political theories of law, international political theory and in the relation of normative and empirical theories of politics might want to consider participation in the workshop.

Type of Paper

We welcome papers broadly concerned with the political theory of international law - starting either from a normative or an empirical perspective. Particularly we would be interested in papers covering one of the following topics:

(a) How can the different political theories of IR (liberal, realist, marxist, postmodern etc) make sense of international law and legalization? We invite papers interpreting newest research results from empirical IR scholarship or trends in international law and international legal scholarship in terms of traditional and contemporary political theories of IR.

(b) How can we bring normative political theories closer to practice? We seek papers confronting normative theories with empirical evidence about international law and legalization or trying to incorporate newer empirical evidence into these theories, aiming either at corroborating or improving their empirical assumptions, their applicability or prospects for realization, or at the revision of their normative conclusions.

(c) Which effect do empirical trends other than legalization like transformation of sovereignty, privatization, globalization have for the role of international law political theories? In this context we also would like to see papers which deal with questions exposing more traditional approaches to international law and politics with recent empirical findings and exploring whether and how they could still make sense in the more complex world of today (e.g. Hobbesian, Lockean, Grotian).

(c) Currently the interaction of empirical research and political philosophy is most visible in research inspired by Kantian thought. But it is interesting to note that Democratic Peace Research, Kantian

International Law and Kantian Political Theory do not connect as easily as one might think. We therefore invite papers reflecting on this relationship, resolving existing contradictions and deepening existing links.

(d) While some attempts exist to build political theories of international law on political philosophies, traditional and contemporary (e.g. Marxist: Miéville 2005 and Foucauldian: Hammer 2007), these approaches are still in their initial phase. We welcome papers applying these approaches in normative and empirical research, thus testing their theoretical leverage or deepening their conceptual elaboration and exploring their empirical and normative potential, or papers which sketch perspectives for political theories of international law other than the already well established approaches trying to redefine the role of international law in the emerging multi-level system of global governance.

(e) Finally, we also invite papers reflecting on the relationship of facts and norms in international political theory and empirical research in regard to the role of international law. How does law figure in argumentative constructs for justification and application of normative theory (e.g. in Rawlsian reflective equilibrium or realistic Utopia)? How could empirical theories relate to such concepts?

The Workshop Convenors

Oliver Eberl is assistant professor for political theory at Darmstadt University of Technology. His research interests include Kantian political theory, political theories of law, and international political theory. He has published his PhD thesis on the reception of Kant's "Perpetual Peace" in contemporary debates in IR, International Law and Political Philosophy (Eberl 2008a). His publications include chapters on democratic legal positivism (Eberl 2006), on Kant's perpetual peace as a theory of law (2008b), on liberal international law (Eberl 2008c), and on the metaphysics of International law (Eberl forthcoming).

From March 2009 Christoph Humrich will be assistant professor at the University of Bremen. His research interests include IR theory, legalization, and international political theory. He is currently working on the publication of his PhD thesis „Communicative Reason and International Relations“, including the sketch for a discursive theory of international law. Publications include chapters on critical IR theory (Humrich 2006a), the state of German IR theory (Humrich 2006b), the discursive theory of international law (Humrich 2007) and international legislation (Humrich forthcoming).

Funding

Oliver Eberl's institutional affiliation is linked to the Cluster of Excellence "Formation of Normative Orders". Christoph Humrich's institutional affiliation is closely related to the Collaborative Research Centre „Transformations of the State“. We will first try to tap resources there. Other opportunities include the Fritz-Thyssen-Stiftung which particularly funds interdisciplinary research on global governance and the German Research Foundation (DFG).

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