



Amsterdam Center for International Law

CALL FOR PAPERS

Interfaces between International and National Legal Orders: An International Rule of Law Perspective

The Amsterdam Center for International Law (ACIL) is organising a seminar on 14-15 March 2013 and invites paper proposals from scholars and practitioners of law and related disciplines.

The Seminar Theme

The seminar explores the evolving interfaces between international and national legal orders from the perspective of the **international rule of law**.

In this seminar, the **international** rule of law concerns international law regulating states, as well as international institutions and other subjects of international law. The **international rule of law** could be narrowly defined to encompass procedural requirements, or more broadly to include *inter alia* human rights, democracy, the separation of powers, and/or accountability.

Background

The interfaces between international and national legal orders are the points where the actors, norms and procedures which form and maintain the two legal orders interact with one another. These interfaces have significantly evolved due to the extension of the subject matter of international law and its impact on domestic regulatory policies. International actors, norms and procedures play significant roles in shaping the rule of law, human rights and democracy in the domestic legal order. Because of this substantive influence, the formal dualistic perspective on international and national legal orders has become increasingly mismatched with the reality of inter-order interfaces.

International scholarship has produced extensive studies to capture the inter-order interfaces primarily from the perspective of *national* rule of law. Much less recognised is the *international* perspective, namely, the impact of national law on the rule of law within the international legal order. Given that United Nations General Assembly resolutions also support the rule of law at the international level, the question of whether and how the international rule of law develops through interactions with national law and the national rule of law is worthy of examination.

The relationships between these two branches of the rule of law appear multi-faceted. On the one hand, national **implementation and compliance** with international law may strengthen the international rule of law, as identified by the UN Secretary-General in his March 2012 report (A/66/749) prepared for the high-level meeting of the General Assembly to be held on 24 September 2012. On the other hand, the domestic **avoidance and contestation** of international law and the decisions of international institutions could also enhance the international rule of law by signalling deficiencies of international law and international institutions in terms of human rights, democracy, accountability, and overall, the rule of law.

Angles

Against this background, the seminar will address the query as to how the national rule of law and the national reception of international law influence and develop the international rule of law, particularly from the following three angles:

1. The concept of the international rule of law

The broad endorsement states give to the rule of law at the international level is often offset by the conceptual elusiveness of the international rule of law. One fundamental question concerns the extent to which the international rule of law can be conceptually comparable to the national rule of law. Does the international rule of law only signify compliance and procedural requirements or can it include more substantive norms such as human rights, democracy, and the separation of powers?

The conceptual comparison between two branches of the rule of law gives rise to the question about the similarities and differences between the authority regulated by the national rule of law on the one hand, and the authority regulated by the international rule of law on the other. For instance, to what extent could the authority exercised by international institutions be compared with that of national governments? What parameters can we use to assess the comparability?

2. The development of the international rule of law through national practices

The domestic application of international law has traditionally contributed to the development of international law in general. It has formed part of new customary international law and treaty interpretation in the form of state practice. It has also served as a basis for general principles of law. Further, the decisions of national courts have been invoked as subsidiary means for the determination of rules of international law.

These classic roles attributed to domestic legal practices, however, may not fully capture their presence in the normative development of the international rule of law. Do national practices, especially those that contest international rules or decisions, have any swing-back effect on the development of the international rule of law? Does national contestation, which appears to undermine the international rule of law, actually facilitate its reform? Also, what impact do national laws and national court decisions have on accountability processes in regard to international institutions, such as the United Nations?

3. Universality, certainty and diversity in the international rule of law

The role of national contestation in the development of the international rule of law gives rise to the further question as to a possible tension between the universality and certainty of the international rule of law on the one hand, and the diversity of national law on the other. The rule of law is traditionally associated with certainty and predictability. But is this a workable standard in light of diversity across legal systems? How does international human rights law, for instance, preserve national diversity while ensuring the universal standards of human rights and their legal certainty? How should the value of relative uniformity and certainty that may be seen as intrinsic in the rule of law be balanced with the value of diversity?

The tension between universality and diversity is related to the question about the legitimacy of international legal principles and rules. Despite the fact that international law has an impact on the domestic rule of law, the international law-making and application processes invite only restricted input from domestic constituencies. If international law and international dispute settlement procedures suffer from legitimacy problems, should they keep a distance by leaving a 'margin of discretion' to the national sphere? Could the expansion of the international rule of law undermine the rule of law at the domestic level, as opposed to strengthening it?

Papers are invited to explore these angles from normative and empirical standpoints in a variety of international law disciplines. These three angles are interrelated, and multiple angles can be addressed within one paper.

Submission of Proposals and the Timeline

Paper proposals should include a description of maximum 500 words and the applicant's *curriculum vitae*. Submissions should cover work that has not been previously published.

At the time of the seminar, the invited authors should present a paper of 7,000-8,000 words, excluding references. It is the intention of the organisers to publish the papers in an edited volume.

- Paper proposals should be sent by email to Ms. Martine van Trigt at acil-fdr@uva.nl.
- The deadline is **1 November 2012**.
- Selected participants will be informed by 1 December 2012.
- Each participant must submit a paper by 22 February 2013 for distribution to the other participants.
- The seminar takes place on 14-15 March 2013 at the University of Amsterdam.

The sponsoring organisations will cover the speakers' travelling and accommodation expenses.

The seminar is co-sponsored by the Hague Institute for the Internationalisation of Law.

For substantive questions, please contact Dr. Machiko Kanetake at M.Kanetake@uva.nl.