International Relations and International Law: Divided by a Common Language

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1 Research Question and Argument
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Observation

- “International law and international relations scholarship has, particularly in the last decade, offered a variety of often competing explanations of the extent to which international norms matter in international affairs.

- All move beyond the seemingly law-affirming observation made by Louis Henkin a generation ago
  - That most states observe international law most of the time

- By asking
  - Why this is the case and whether the law is in fact causing the behavior in conformity with it.”

  (Ratner 2000: 647; my emphasis)
“(D)espite the many calls for bridge building between the fields of International Law and International Relations, genuinely integrative studies are few and far between.

- Lawyers leaven their writings with a dash of real politic here and utility maximizing there;
- International Relations scholars enlist the authority of legal interpretation and harvest insights into legal reasoning.

But these are seldom exercises in genuine dialogue, aimed at producing new theoretical perspectives, views that are more than the sum of their parts, which promise to advance understanding in both fields.”

(Reus-Smit 2011, 339; my emphasis)
Questions

- Why does the **value-added of collaborative research** so rarely bear genuine potential?

- Why does interdisciplinarity rarely work, even if both conceptual language and research topic overlap?
<table>
<thead>
<tr>
<th>International Relations</th>
<th>International Law</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Things to do with international law”</td>
<td>“we may now be seeing a crisis of unusual proportions which could require a reassessment of the state and role of international law”</td>
</tr>
<tr>
<td>(Hurd 2017)</td>
<td>(Krieger and Nolte 2017: 5; my emphasis).</td>
</tr>
<tr>
<td>Norms are by and large “robust”.</td>
<td>Norms are in a state of “decay”.</td>
</tr>
<tr>
<td>(Schmidt and Sikkink 2017)</td>
<td>(Crawford 2018)</td>
</tr>
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Argument

- Against the backdrop of unsuccessful cross-referencing recurring calls for further interdisciplinary moves are puzzling.

- Two sources undermine the value-added of interdisciplinary cross-referencing:
  - *Internal disciplinary diversity*
  - *Cross-disciplinary misconception*
Divided by a Common Language

Research Question

- What are conditions of successful cross-referencing between international law and international relations?

- To explore this question, DBCL focuses on norms research in international relations.
Cross-Referencing

Argument

- A common language is meaningful only, if and when cross-referencing is viewed as beneficial for both the root-discipline and the other discipline.
DBCL Project

- Proposition
  - Two options for successful collaboration among IR theorists and international lawyers:
    - Interdisciplinarity
    - Transdisciplinarity

- Suggestion
  - Norm-typology with the aim of transdisciplinary research on norms.
## Norm Typology

### Table 3.1 The Norm Typology

<table>
<thead>
<tr>
<th>Norm Type</th>
<th>Examples</th>
<th>Scale</th>
<th>Moral Reach</th>
<th>Reactive Contestation</th>
<th>Proactive Contestation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Fundamental Type 1</strong></td>
<td><strong>Case Scenarios:</strong> Fundamental Rights of Individuals, Torture Prohibition, Sexual Violence Prohibition; <strong>Other:</strong> Rule of law, Democracy, Sustainability</td>
<td>Macro</td>
<td>Wide</td>
<td>Low</td>
<td>High</td>
</tr>
<tr>
<td><strong>Organizing Principle Type 2</strong></td>
<td><strong>Case Scenarios:</strong> 'Solange' Principle; Office of the Ombudsperson; 'Security matters' Approach, 'Documentation of details' Approach <strong>Other:</strong> Common but Differentiated Responsibility; Responsibility to Protect (R2P); Rule of law mechanism (EU); Total Allowable Catch Annual Percentage Allocation</td>
<td>Meso</td>
<td>Medium</td>
<td>Medium</td>
<td>Medium</td>
</tr>
<tr>
<td><strong>Standardized Procedures, Regulations Type 3</strong></td>
<td><strong>Case Scenarios:</strong> Smart Sanctions, Blacklisting; Article 103 procedure; Web-listing; Torture standards <strong>Other:</strong> R2P three pillars; Electoral rules; Rule of law procedures</td>
<td>Micro</td>
<td>Narrow</td>
<td>High</td>
<td>Low</td>
</tr>
</tbody>
</table>

*Source: Adaption from Wiener 2008: 66; and Wiener 2017c*
Research Assumptions

- **Type 1 @macro-scale**
  - Given their broad moral reach, *type 1 norms are expected to generate low reactive and high proactive contestation.*

- **Type 2 @meso-scale**
  - Given their origin in processes of politics and/or policy-making, *type 2 norms are shared within smaller sub-units constituted through regular interaction; reactive and proactive contestation are expected to be balanced.*

- **Type 3 @micro-scale**
  - Given their high degree of formalisation, technical detail and narrow moral reach, *type 3 norms are expected to generate high reactive contestation and low proactive contestation.*
### The Cycle-Grid Model

#### Step 3: Evaluating Access to Norm Validation

<table>
<thead>
<tr>
<th>Time</th>
<th>Stage 1: Constituting</th>
<th>Stage 2: Negotiating</th>
<th>Stage 3: Implementing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Place</td>
<td>Site 1</td>
<td>Site 2</td>
<td>Site 3</td>
</tr>
<tr>
<td>Scale of Global Order</td>
<td>Macro</td>
<td>Site 4</td>
<td>Site 5</td>
</tr>
<tr>
<td></td>
<td>Site 7</td>
<td>Site 8</td>
<td>Site 9</td>
</tr>
<tr>
<td></td>
<td><strong>Formal Validation</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Social Validation</strong></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td><strong>Cultural Validation</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: Adaption from Wiener 2014: 21, Figure 2.1; Wiener 2017b