

Panel 8: The politics of international law and the law of international politics

Organizers

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Traditionally, social scientists and lawyers seem to have different perspectives on politics and policymaking. This was also true for international (and European) issues. Inter-national relations scholars would tend to dismiss international (and European) law as at best the product of the interplay of the most powerful states, and certainly as inconsequential if their vital interests of states were at stake. Lawyers would complain how of political considerations would not necessarily be consistent with their legal reasonings. As a matter of fact, in the past we would find few scholars working at the interface of both disciplines.

This has changed since the deepening of European integration since the Single European Act (1985) and the growth of the importance of international rules and norms, in particular since the end of the Cold War and the advent of globalization. It has been recognized that international and European law is increasingly consequential and that states are increasingly prepared to engage in self-binding behaviour. Explanatory factors may be found in the strengthened link between domestic legal system and international ones (as in the case of the European Union and the European Court of Human Rights), or in the game of reputation through monitoring and shaming (in which NGOs and international organizations play an important role), or in narrow strategic calculation by states. Indeed, in some corners it has become common to speak of the legalization of world politics.

The panel wanted to come closer to an understanding of the conditions under which states respect and disrespect international and European law. It welcomed papers both on classical interstate relations and on topics involving non-state actors. The following subjects, amongst others, were discussed at the panel

- The influence of politics on international (and European) judicial decisions (e.g. to what extent is international politics a de facto source of international [and European] law?)
- The influence of international law on international politics (e.g. to what extent form international legal constraints for actors in international relations, or do they facilitate the pursuit of their preferences?)
- Is international law really law (or in the end international politics); compare writings on deconstructivism by e.g. M. Koskenniemi and D. Kennedy
- To which extent are trends in IL/the international legal order (for instance influence of non-state actors, new instruments, global administrative law) related to developments in IR?
- The impact of international organizations (e.g. through rule-making)
- The call for international accountability mechanisms. Should these be legal or not (cf. persons on terrorist list of the UNSC).
- Where do international relations and international & European law meet? What are possibilities for future cooperation and a possible joint research agenda?
- Thematic case studies showing the interplay between IL and IR (security, environment, trade/WTO, human rights, etc)
- Myths in International and European Law from the perspective of international relations and vice versa.

Selected papers will invited to contribute to a special issue of *Vrede & Veiligheid* on the interface between international politics and international & European law, to be published in 2009.

Linkage between panel and NIG subthemes

The panel particularly shedded light on issues addressed under the following NIG programme subthemes: it fitted the subtheme Future of the Nation State because the panel will deal with the issue of legalization of world politics, thus opening up the possibility that the policy autonomy of the nation state in international relations may be constrained by legal concerns. It also fitted the subtheme Public management in a joined up world because the

panel addressed developments (increased role for international law, rules, organizations) as these are often seen as instruments to manage transnational problems emerging from the consequences of globalization. To a lesser extent it fits the subtheme citizens and governance, but it is obvious that certain forms of legalization of world politics involve the empowerment of citizens (and groups) vis a vis sovereign states (e.g., in the EU and NAFTA).