Knowledge Production and International Law

International law knows the world. It uses a stock of knowledge to make judgements about the world. International law produces the world: it is itself a way of knowing the world that in turn performs and organizes it.¹ And international law knows international law itself, producing its own orthodoxies and heterodoxies for the world to see.² How international law is made, interpreted, and applied is thus dependent on what knowledge is produced, and how it is produced and deployed. In today’s world of ‘post-truth’ and ‘fake news’, seeking to uncover how knowledge is produced and how the production of knowledge affects law and policies at the global level is an important exercise.

Yet, knowledge production has rarely attracted sustained theoretical interest in the literature of international law. While sociologists have long noticed the role of the communis opinio doctorum in the production, reproduction and shaping of the legal order,³ international legal academics and professionals have traditionally operated on the

assumption that international law is an objective reality existing out there, with their own role being limited to providing an accurate representation of that reality.

The expectation that this state of affairs could change with the advent of what is called “new approaches to international law” still remains an expectation: despite the emphasis placed by several prominent representatives of such approaches on the central role of international lawyers in the perception of what international law is and what it is for, no systematic attempt has been made to analyze the actors by whom or the mechanisms, channels and politics through which knowledge is produced, disseminated, performed, and reproduced in international law.

This conference aims to contribute to filling this gap by initiating a discussion on knowledge production and international law through four thematic panels. Selected contributions will be included in a publication.

Thematic panels

1. International law as a field of knowledge

Michel Foucault famously observed that “knowledge is not made for understanding; it is made for cutting.” Through their successful claims to autonomy and their monopoly over expertise and cultural capital, disciplines have become the sites where this symbiotic relationship between power and knowledge unfolds and where the forces having “their hand upon the knife” operate while any sign of betrayal of the ideal of disinterested pursuit of knowledge is actively repressed. This panel considers international law and its specialized branches as separate fields of knowledge/discursive spaces and invites

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reflections on politics of knowledge at work in international law and their implications for how international law frames and enframes the world.

Contributions may focus on the social construction of international law and its branches as autonomous fields of knowledge, the role of the discipline in controlling and delimiting international legal discourse and the place of, and resistance to, interdisciplinarity in international law.

2. Ignorance and the limits of knowledge in international law

International lawyers assert knowledge. Sometimes, this is legal knowledge, both about international law and about the world. At other times, this is policy knowledge, mediated by other disciplines, from the hard to the social sciences (and sometimes history and the humanities). If international law is a field of knowledge, its participants can be said to be in the game of making their assertions more authoritative than their colleagues.8

Knowledge, however, is necessarily finite. There are more things we ignore than things we know.9 Some things we choose to ignore, some we simply cannot know.10 In any field of knowledge there are vast oceans of ignorance around small islands of knowledge.

This panel asks: How do international lawyers deal with this fact? How do they encounter ignorance in their work, and at the same time, how is their work shaped by ignorance? What strategies and practices do they use to ‘fill in the blanks’ of knowledge about international law and of knowledge about the world for international law? What is the place in the labours of international law of ‘practices of ignorance’, such as bracketing, deferral, and fiction? What is the place of ignorance in the very structure of the international legal field?

This panel invites contributions considering these questions relating to ignorance and the limits of knowledge to international law.

3. Determinants of international law scholarship

International law scholarship purportedly produces knowledge, or at least does something to, and with, knowledge. What then makes international lawyers produce such scholarship? And what should?

What structures and guides, incentivizes and constrains, shapes and distorts, pushes and pulls the production of international legal scholarship? Are we permitted to say what we believe? Do we permit ourselves to do so? Does anyone or anything force us into a compromise with our freedom to think? Do we tend to choose values to live by which force us into such a compromise? Do we sometimes shill for someone? Should we accept to promote a position we have been paid to advise about, or consult upon? Who do we work for anyway?

Surely we can never quite be scholar-saints in pure altruistic pursuit of better knowledge, but that doesn’t mean that part of our determinants doesn’t indeed point that way. If we zoom in on that part, what should it aim for? Can we and should we ‘scientifize’ international legal scholarship? Identify and follow our own moral convictions? What are the respective values of systematization, rationalization, simplification, elucidation, compilation, conceptual ground clearing and news reporting?

This panel invites contributions on any of these aspects of the determinants of international law scholarship.

4. Emotions and international law

Law, including international law, is traditionally grounded on rationalist assumptions. The prevailing idea is that the knowledge that informs the making, interpretation, and application of international law is predicated on scientific facts and evidence. Knowledge, however, is not only produced by scientific facts and evidence, and it goes beyond rationality. Emotions, whether individual or collective, also impact our perception of the world which consequently influences the making, interpretation, and application of international law.

There is a growing field of law and emotions scholarship in the US, and more recently in the UK.¹¹ Law and emotions scholars have challenged the idea that emotions should be

kept outside of the law. Work has done been done to study emotions in different areas of law, such as criminal and family law, and the impact of emotions on legal actors, such as judges.\textsuperscript{12} Despite the growing attention for the study of emotions in domestic law, international law has remained largely silent on the role of emotions.

This panel invites consideration of the role of emotions in international law. Particular issues of focus may include the relationship between reason and emotion, the role of emotion in cognition, and the functions of emotion in international law. Contributions may focus on particular emotions in particular areas of international law, or a broader consideration of emotions and international law.

Abstract submissions:

- Abstracts of maximum 500 words and a CV should be submitted to knowledge-production-IL@graduateinstitute.ch by 14 May 2018. Please indicate in your abstract which panel you are submitting to.
- Decisions regarding abstracts will be communicated by 28 May 2018.
- Draft discussion papers of no more than 8,000 words are due by 31 July 2018.

Conveners:

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