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Alex Abbott

International Investment Law, Multilateralism and the World Trade Organisation

At its heart, this project concerns the nature of legal ordering as it pertains to modalities of international economic law. International Investment Law is prominently concerned with the regulation of Foreign Direct Investment. According to the UNCTAD World Investment Report, global flows of foreign direct investment has reached a total of $1.6 trillion in 2022.

International Investment Law is unique in the broader field of economic regulation since it operates on a largely bilateral basis, with a multilateral agreement on investment alluding the field. This research will investigate the question of the legal orderings of investment law to examine the most appropriate for its regulation, whether this be bilateral, regional, or truly multilateral.

The first question of importance in this regard is what the underlying motivations for the protection and proliferation of foreign direct investment are. I shall present an argument that, along with the various commercial interests that permeate investment regulation, the advancement of basic principles of global justice ought to be a central consideration. This gives us some deference to the "why" in the project, namely, why ought one look to examine reforms within international investment law?

The second question looks to examine these orderings, the current state of investment law as a mostly bilateral institution and ask whether multilateralism or regionalism can provide a more suitable environment for the perpetuation of a globally just economic law. This engages with the legal, theoretical, political and economic implications of such a regime. Regionalism within investment law will necessitate attention being given to previously existing regional regulations of investment law, such as NAFTA, as well as the potentiality for future investment regionalism, such as through the European Union and ASEAN. Multilateral regulation will also have to focus on the historically attempted agreements in investment regulation, such as the International Trade Organisation and the OECD Multilateral Agreement on Investment, as well as the potentiality for future agreements, such as the results of UNCITRAL Working Group III.

Finally, the importance of the World Trade Organisation in this discussion shall not be overlooked. The WTO provides a unique case study in the regulation of a similar economic modality (i.e. International Trade) but at a truly multilateral level. It may be necessary to examine some of the successes and failures of the WTO in terms of comparative analysis.

Nouf Alluhidan

The Legal Framework for Public-Private Partnerships (PPPs) as an economic, social, and environmental Sustainability Transition in Saudi Arabia

The research investigates the legal framework for Public-Private Partnerships (PPPs) in the Kingdom of Saudi Arabia as a sustainable transition on three levels: social, economic, and environmental. The private sector can play a significant role in the prosperity of society through the direct and indirect effects of its investments, making PPP a crucial component of building sustainable infrastructures in countries. This resulted in the United Nations recognising the need for all parties, including governments and the private sector, to cooperate and commit to the international partnership of Sustainable Development Goals (SDGs). However, PPPs cannot effectively contribute to the SDGs unless governments implement internal legal adjustments and enhance the legal environment. Therefore, the purpose of this research is to investigate the current framework for PPP under Saudi law and how it may be further improved to achieve the Kingdom Vision 2030 and SDGs.

Fawziyah Bindrees

Privacy in the Ecosystem

In the modern era of technology, individuals may feel compelled to share their social information online, even if it compromises their privacy. The purpose of this thesis is to examine the relationship between copyright and privacy by analysing the perception and legal framework regarding privacy right in order to gain a better understanding of their relationship and potential overlap. This comparative analysis demonstrates that the majority of global laws governing privacy do not recognise it as a distinct constitutional right; rather, it is integrated into numerous areas of the law, such as tort, contract, and property. Moreover, achieving globalised, harmonised legal protection for privacy is challenging. Nevertheless, the greater the perception of privacy, the greater the recognition and awareness of the significance of privacy and information protection, and the greater the amount of caution exercised when engaging in online activities.

Rebecca Bruekers

Equity and reparations in international law

The obligation to provide reparation is an important part of the responsibility of states for internationally wrongful acts. When the determination of a wrongful act is done by the International Court of Justice (ICJ), it is also able to determine the amount of reparation. It did so in the Diallo judgment of 2010 and more recently in the DRC v. Uganda judgment of 2022. After initially finding a violation of international law in the merits phase of each of these cases, the parties were left to negotiate on reparation. In both cases these negotiations failed, leading to the Court issuing a judgment on reparation. During these respective proceedings, the ICJ was faced with evidentiary issues as well as the difficulty of quantifying non-material damage. To come to a suitable monetary amount despite these challenges, it resorted to ‘equitable considerations’. It did not specify, however, what these considerations entailed and how they were to be applied in a specific case. The use of these ‘equitable considerations’ by the ICJ raises questions with regards to the standard of proof adopted by the Court and the quantification of damages that this presentation will address.

Steven Brunning

The Supply and Proliferation of Multi-Supplier Framework Agreements in the UK

This article explores the market for the supply of public sector framework agreements in the UK. It provides a brief background to this type of purchasing tool as currently regulated by the Public Contracts Regulations 2015, followed by an overview of the UK framework agreement market

and an introduction to some of the key findings emerging from a PhD empirical study on this topic. The section of the empirical study relevant to this article focuses on the purchase of ICT requirements through multi-supplier framework agreements and uses qualitative interviews to reveal perceptions of the evolving UK framework agreement market and the commercial behaviours it has generated, some of which, as will be explained in more detail in the PhD thesis, are not aligned with the black letter law. The author concludes that the lack of regulatory controls over the development of the framework market has led to such behaviours and created other problems that call into question the efficacy of the current legal regime in force. The author also considers that the UK Government's proposed reforms, as set out in the Procurement Bill currently making its way through the UK Parliament, are unlikely to address these issues.

Rebecca Hall

Lethal Autonomous Weapons and IHL: How to Operationalise Meaningful Human Control

Victory in armed conflict has normally been achieved by the possession of the most advanced weaponry and an effective military strategy. Recent technological advancements have introduced a growing application of artificial intelligence (AI) in the defence sector. Whereas technological advancement appears to be rapid and never-ending, International Humanitarian Law (IHL) has remained largely stagnant since 1977. The obligations under IHL depend on human decision-making, such as the requirement to distinguish between civilians and combatants. But how is IHL affected when battlefield decision-making is made remotely, or even by AI? The difficulty is compounded when considering that many conflicts involve irregular forces, who cannot be identified and distinguished from civilians by a distinctive uniform.

My paper, entitled *Lethal Autonomous Weapons and IHL: How to Operationalise Meaningful Human Control (MHC),* reflects an element of my broader thesis and explores how the concept of MHC has emerged in the international debate as a method of ensuring IHL compliance. But what is MHC and at what stage(s) of the targeting cycle does a human have to have control? These questions have no easy answers, but I will elucidate some of the key considerations that need to be made before we can claim that MHC is the panacea to the autonomous weapon problem.

Didier Hawkey

The potential impact of causal challenges arising in litigation involving an Autonomous Vehicle brought under the Consumer Protection Act 1987

Autonomous Vehicles (AVs) have developed rapidly due to the efforts of industry stakeholders such as Tesla. However, concerns remain as to how AVs may interact with English law. The strict product liability regime enacted under the Consumer Protection Act 1987 (CPA) has been identified by the Law Commission as a potential area of contention, which may have a detrimental impact on the actualisation of the socioeconomic benefits of AVs.

This presentation briefly introduces the potential complexity and challenges that may arise in Strict product liability litigation brought under the CPA involving AVs. With a focus on the potential causal barriers which may arise in litigation, this presentation aims to highlight the impact of causal uncertainty and an evidential gap on a claimant's ability to succeed in litigation. In addition, this presentation seeks to present reasoned proactive measures (a black-box requirement) that may be adopted to mitigate the negative impact that costly and complex litigation may have upon adopting and actualising the technologies' socioeconomic benefits.

Asad Khan

The role of *pari passu* distribution in UK corporate insolvencies

The thesis explores the suitability of applying free market reforms to the UK's insolvency distribution regime. The 'pari passu problem' is investigated by evaluating the theoretical importance of the principle against its practical insignificance. The failures of the current distribution system are highlighted by underlining the mechanisms available to bypass pari passu. As a result, free market and capitalist ideologies are drawn on to propose changes to the current system of distribution. Empirical research is also relied on to investigate the relevance of pari passu in practice and to provide much needed data regarding the distribution of assets upon insolvency.

The thesis discusses the benefits of utilising a free-market approach to distribution where such developments would better reflect current market practices. The research explores the use of technology to improve information flows and promote registration of security and quasi-security devices. Technology could be used to create a registration system that enables creditors to efficiently protect their interests and negotiate for insolvency. The thesis analysis how AI could examine different contracts on a blockchain and be employed to create a predictive distributary order to promote transparency and help creditors negotiate their contracts. The use of insurance to protect vulnerable creditors (e.g., employees) and the use of a 'limited pari passu' regime to resolve disputes between unsecured creditors is also considered.

Ultimately, the thesis theoretically and empirically evaluates the significance of the pari passu principle. Further, it aims to give the reader a new perspective for resolving the pari passu problem which this author believes better reflects current practices, promotes economic prosperity by rewarding diligence, and encourages contractual innovation.

Zinhle Koza

Children born of war and International Human Rights Law

In recent years, the study of Children Born of War (CBOW) has made significant developments, with global reports recognising the risks, and harms affecting this group. However, despite this progress, there remains a nascent need to acknowledge CBOW as independent rights-holders. At the international level, the Convention on the Rights of the Child (CRC) serves as an essential starting point in identifying the rights issues affecting CBOW during childhood. In this presentation, I will briefly outline the recent developments in the study of CBOW. Following that, I will provide an overview of the key rights of CBOW under the CRC and the reason I am investigating these as opposed to other rights. Owing to time constraints, the key rights that will be addressed in this presentation are Articles 6 and 7 of the CRC. Lastly, I will briefly discuss how the rights of CBOW are addressed in the work of the CRC Committee, with an emphasis on the State reports submitted under Article 44.

Mirella Lechna

Taking the Right to Compete for EU Public Procurement Contracts Seriously

On 1 January 2023, the EU celebrated the 30th anniversary of the single market. Since its establishment, the evolution of the legal framework proceeded to liberalise the markets of the Member States gradually allowing foreign competition to access government contracts.

For years, the law evolved but so did political powers and attitudes to the European Union. In particular, since 2015 the rise of populism and Euroscepticism has been observed in the politics of EU Member States by which the fundamental values and institutions of the EU are being questioned. Views on the law, although not directly dependent on the political system, in which

they were created, are often a convenient and load-bearing element that ideologues use to support their political aspirations.

This paper is an extract of the (working draft) research titled “Essential security interests’ derogations under EU-wide public procurement law in the context of increasing Euroscepticism” and presents which examines public procurement law reform in Poland in 2016 - the Member State, where the progressive erosion of the rule of law has been observed to affect internal market competition (case T-791/19, *Sped-Pro*). It also forms the basis for a positivist analysis to answer the question “what is the law” in Poland that regulates the application of the essential security interest derogations from the fundamental freedoms of TFEU, i.e.: freedom of movement of goods, services, establishment (under Articles 36, 52, 62 and in particular 346).

Tobias Lunn

Disinformation within modern advertising systems: can human rights prevail on platforms for profit?

Human rights instruments provide an individual with the right to hold an opinion ‘without interference’. However, to what extent can people freely develop opinions in modern society? Communication technologies have recalibrated the world’s access to information, as digital feeds and smart phones now form the predominant medium to find facts, read news, share experiences, tell stories and ultimately form opinions whilst shaping beliefs. Freedom of expression, as a right to seek, receive and impart information, is now, inadvertently, defined by new technologies. Whilst on the surface, technology may appear to empower these rights, a much darker reality lies underneath the glossy convenience of a seemingly decentralised public forum. AI systems burrow people’s awareness into political echo chambers, conspiracies and hate speech are disproportionately prioritised alongside disinformation and any individual, company or state can pay for space on digital feeds, due to the commodification of data profiling within modern advertising systems.

The power to influence, manipulate and arguably control people’s thoughts through the use of modern advertising systems is both extraordinary and deeply disturbing. There is overwhelming evidence to suggest that both foreign and local actors have used these technologies to promote ideologies, discredit individuals, distort public health messaging, change election results and turn societies against themselves. This begs the question of whether people are creating opinions ‘without interference’ and how the ‘freedom’ to seek, receive and impart information can coexist with modern advertising systems. Following the radical transformation of communication technologies, the human rights to freedom of opinion / thought and freedom of expression/ speech require reconceptualization; not only through their application in the new digital medium of the virtual world, but in a much broader conception of what the 'rights' actually are.

Özgür Milletsever

Data Protection Issues Arising in Connection with the Use of Artificial Intelligence

In the 21st century, almost every aspect of human lives from social media companies to banks revolves around data. Numerous service involves the collection and analysis of personal data such as names, addresses, travel details, religious beliefs, credit card numbers, medical records. Moreover, the collection, analysis and storage of these personal data are rising with the increasing introduction of artificial intelligence (AI) into our lives, because the more data means the better result for AI systems. Therefore, the rapid development and deployment of AI challenges the current regime governing data protection.

AI presents challenges as well as benefits. On the one hand, the capabilities of AI systems now and in the foreseeable future promise widespread and substantial benefits for individuals, institutions, and society. On the other hand, AI might be seen as a threat against the right to privacy and data protection.

AI systems are 'hungry' for huge volumes of data in order to learn and make intelligent decisions. For this reason, it often works by collecting and analysing all of the data that is available. Thus, strengthening data protection in AI systems is one of the most significant issues for either now and the future. This research aims to scrutinize one of the most contemporary problems of data protection law, that is, the crucial data privacy issues that AI causes. Data protection law must protect data privacy efficiently in the era of AI. Therefore, this research will examine the current data protection regulations and fundamental data protection principles for AI systems and will answer whether they are increasingly outdated and ineffective for AI systems. Finally, this research will focus on how AI systems can be made more privacy and data protection friendly.

Charlotte Newbold

Investigating Discriminatory Operation of Criminal Law: Discerning Principles

The aim of the proposed research is to undertake a theoretical, interdisciplinary enquiry, into the English and Welsh approach to the criminalisation of conduct, primarily based on leading theories of criminalisation. The purpose of the study is to identify potential sources of legal discrimination within criminal law, and whether the principles currently underpinning theories of criminalisation tend the operation of criminal law towards this. Existing research into discriminatory criminalisation usually encompasses sociological/criminological approaches to harmful legislation and criminalisation of minority groups 'in practise'. This literature also identifies and problematises 'soft' criminalisation via extra-legislative means, such as policing or regulatory standards which criminalise 'around' conduct. Existing criticism of major theories of criminalisation point to their lack of practical applicability, over-inclusiveness, and inability to limit state intrusion into liberty (as intended). Thus far, however, no research has been conducted into the potential discriminatory failings of these philosophical tools used to underpin and drive the creation of criminal legislation, and the principles from which they are derived.

The progression of this research thus far has identified areas of tension which require further investigation. Particularly where existing literature has pointed towards tensions internal to the liberal legal tradition which is a generally accepted view amongst criminalisation theorists. These tensions are found to be exacerbated by a need to reconcile how justice is conceived within anti-discrimination principles, as well as the growing trend of prevention of risk within criminal law. Currently, two areas of substantive law for exploration of this conflict encompasses terrorist offenses and offenses relating to the practice of FGM, and this is done using the thematic relationship between citizenship and violence.

Aline Pereira

The core of enslavement

The combat against slavery is one of the few human rights imperatives that invites no principled dissent. The contours and parameters of slavery, however, remain widely contested. The definition of slavery is a social and political construct. It is, hence, context-specific. Slavery has a plurality of meanings, at times conflicting, depending on the vantage point of those whose voices have prevailed in the game of forces in which it is defined. What is common to all most existing definitions is that meanings of slavery are constructed without conversation with

survivors, both internationally as well as in Brazil's scholarship. They are rather forged by scholars, lawmakers and practitioners relying on methods that do not include the participation of survivors. As a consequence of this shortcoming, existing definitions lie on slaveholders' behaviour or their intent, and not on the experiences of the enslaved. It could not be otherwise, since mainstream definitions have been developed by people who have never witnessed slavery and who have mostly learnt about it from the comfort of their desks and offices. The result is definitions forged by 'us' to reflect what 'they' experience.

A nuanced understanding of enslavement can be enhanced through the exploration of what is at its core as well as what is its antithesis. In mainstream studies, while slavery is presented as opposed to freedom, dignity contrasts indecent work. Slavery and dignity, therefore, are often portrayed in different spectrums. Only recently and scantly, scholars have argued for the existence of a continuum ranging from decent work or worker citizenship to slavery-like practices. These studies, however, do not look at the topic from the perspective of survivors, especially in Brazil's scholarship.

How we formulate the definitional layers and the antithesis to slavery has impacts on how we address it. Responses to a legal phenomenon are tailored according to what the norm envisages. If by criminalising slavery we aim to protect human dignity, then fighting against slavery requires actions that equally promote and enhance dignity. Understanding the perspectives of those who have experienced slavery in Brazil might further unveil new elements to bring survivors' views to bear on the definition of slavery, enabling the refinement of an operational definition.