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# **Some Fundamental Aspects of Global Law**

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Fit for the times we live in

# Living through uncertainty

The present is as uncertain as the future

We must to learn how to think and what to think



# Greatest Current Legal Challenges

1.



1. The Global Nature of Law
2. Technology
3. Ecology of Law: Human Rights Inflation, The Growth of Law
4. Capacity of Law
5. The Value of Truth
6. The Problem of Free Will
7. Recognition of Different Consciousnesses

# The Global Nature of Law

The perception of law as a “uniform and monopolistic” set of rules enacted by the state is experiencing a collapse. International/**Global problems have become too complicated to be effectively resolved by individual national governments.**

Main factors of such change:

- **Rapid development of science and technology;**
- **Formation of global markets;**
- **Humanitarian, health and environmental problems.**



# Technology

The list of areas where technology will pose a challenge to law is endless. E.g.:

- **Medical research** (e.g., genomic information as personal data);
- **Finance** (e.g., AI, fintech, and fiduciary duty, cryptocurrency);
- **Automotive industry** (e.g., robotics, the Internet of Things (IoT) and liability);
- **Consumer household** (e.g., IoT, cybersecurity and personal privacy);
- Etc.

## Ecological issues of law

Just like a natural environment, law too can suffer from **pollution with inappropriate norms, practice, incompetence of judges, etc.**

**Law quantity vs. law quality**



It's a must challenge to keep the law “clear”.

## Capacity of Law

Law is presumed to be a **domain enabling and enforcing Human Rights, freedoms, and other means of protection of an individual** (at least in liberal democracies).

At the same time, law is used by the right-wing politicians to **“abolish” or limit** these rights/freedoms.

*Can the Law solve this issue or is it doomed to help destroy what it contributed to in the past?*

# The Value of Truth

The value of truth is being undermined (so called post-truth era)

Modern technologies and social networks are making **the spread of various ideas easier**

Law only *partly* accommodates these issues (e.g., hate-speech, protection of honour and dignity) as **further regulations can have detrimental effects on the freedom of speech**

# The Problem of Free Will

Newly-emerging literature on determinism argues that **law must be rethought** as it was developed on a **presumption that people are free and have free will**.

Latest neuroscientific research also questions free will as free and undetermined.

*Is this right or wrong? Could it cause crisis for law?*

- Scientific surveys of Benjamin Libet and arguments made by hard determinists, e.g., G. Strawson;
- Arguments of Derk Pereboom and Gregg D. Carusso for **reshaping the criminal justice system as it is unlikely we have free will**.

## Recognition of Different Consciousnesses

- Awareness of specific AI-consciousness, therefore not using it as means, but rather **looking to it as ends/to live with**;
- Acknowledgement of consciousness of an animal, protection of ecosystems, etc. (e.g., Christine Korsgaard).

# Entirety of Law Reality

# Illusional clearness vs. Meaningful unclearness



# Defining Law



*I created a vision of David in my head and simply carved away everything **that was not David**.*

**David**  
Michelangelo

1501 - 1504

The Law is a phenomenon with specific questions operating in the zone of productive intellectual tension



# Fundamental Point of Law



**Human** is “*everything*”.

That alone makes a Human unequal to (-her)himself.

It is the only "*unit*" in the world that steps beyond itself, going beyond all definitions, concepts and terms of itself.

A Human is a truth that cannot be denied.

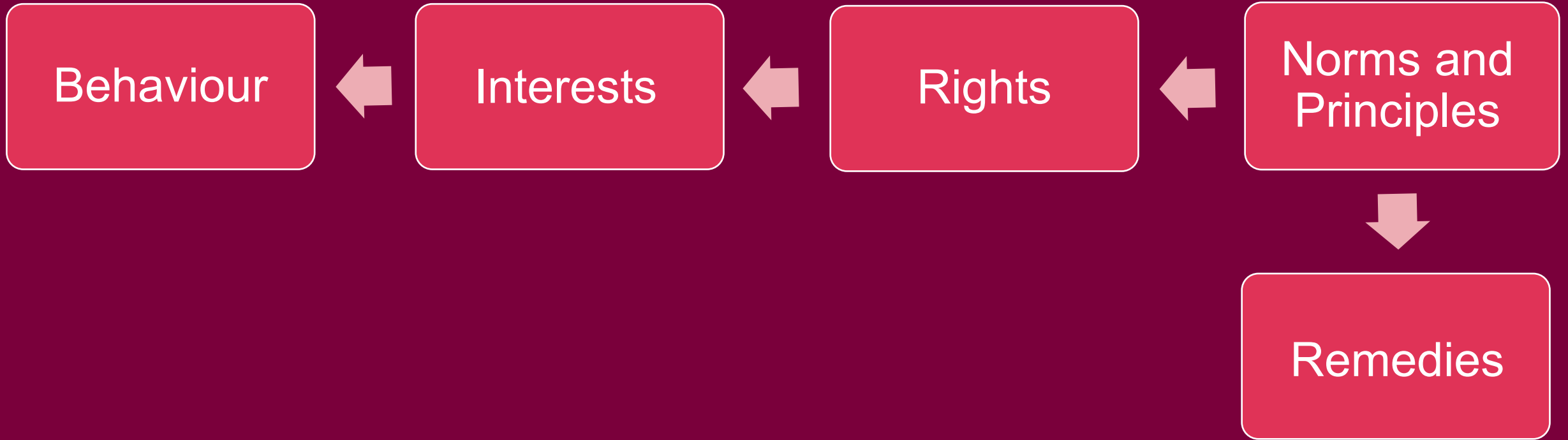


Stepping beyond Human boundaries as a form of life

Peripheries of Human experience and its specific features



# Law: a composite whole




- The goal of a productive, rational and critical thinking is to understand Law as having certain goals and not being self-valued;
- The objective of legal studies should also be the analysis of behaviour of judges / officers and the recipients of their orders;
- Emphasis should be given not only to the “*paper*” norms, but to “*real*” norms, which describe the reality around us;
- Law may be understood when considering the interactions between a Human and official institutions in power;



# Global law and/vs International law


International law is in crisis because the state as a means of organising political and legal affairs is dying a slow death (?)




Maybe we are looking for too simple answers to complex questions of International Law, which cannot explain the diverse essence and practice of International Law?

And are we looking in the wrong place? Maybe in our search for simple answers we have lost the ability to understand complex things?

Is it possible that the theory of International Law is correct, but we do not understand and interpret it properly?



Is it a problem of questions or answers in International Law,  
i.e. are we formulating the questions incorrectly, or is the  
Legal theory we use inadequate to find correct and practical  
answers?




Maybe in the process of understanding and interpreting International Law, we include completely irrelevant "authors", "theories", "concepts", "terms", "ideas", "methods", thus "polluting" the content of International Law, which makes appropriate and clear answers in International Law impossible?



Can we rationalize the discussion of International Law by including a defined number of legal ideas, thus not "drowning in reasoning" the discussion of International Law itself?



How can we avoid polluting International Law with thoughtless, drastically pragmatic, quickly created and difficult to apply statements/concepts/definitions of International Law, so that it does not become chaotic and rationally inexplicable?



Or maybe clarity in International Law is impossible due to the very nature of International Law and its purposes, so we should focus not on answers, but on the right questions and the right process of finding answers, which allows us to understand the "fascinatingly" complex essence of International Law?



International law expose a world that Philip Allott (Oxford University) has described as International 'unsociety', it does nothing to address the lack of humanity in the International system (?)

There is something soulless about International law, denoted by its primary focus on economic interactions (?)

Challenge of the traditional discourse?

Global law is as an analytical tool to understand or map the shifting legal landscape around us

## 1. Global Legal Pluralism

The reality of multiple overlapping legal systems – international, regional, national, even local – creates a pluralistic legal landscape

Each State develops its own concepts:

- „Pragmatism" – in American law,
- „Subject" and „Rule" – in German law,
- „Experience" – in English law,
- „Intelligence/mind" – in French law

Can Global law cover/possess these concepts and become a comprehensive entirety?

It is the very difficult task of providing a clear understanding of recent developments in Law (?),

putting **the complexity** of the legal global order into a coherent theoretical framework

## 2. Fragmentation of International Law

International law has split into specialized sub-regimes (trade, human rights, environmental law, etc.) that sometimes conflict or operate in isolation



### 3. Sovereignty vs. Global Governance

A fundamental tension exists between state sovereignty and the demands of global governance

The growing globalisation requires a harmonisation and unification of the rules of law governing “world being“

Much need to be done to make international law more international

Law of nations and/vs Law between nations

# Non-state actors and its capacity to provide regulations beyond states

Not Global Law, but Governance Systems Beyond the State (?)

Lex mercatoria or lex sportiva as examples of (systems of) Law that by their nature are not limited by the territorial boundaries of individual states

## **Private International Law**

Addresses conflicts between different legal systems.

## **Public International Law**

Governs relations between states and international entities.

## **Transnational Law**

Rules that transcend national borders and legal systems.





# Key Areas of Global Law

## International Public Law

- Treaties between states
- UN and WTO frameworks
- International obligations

## Private International Law

- Conflict of laws
- Jurisdictional questions
- Foreign judgment enforcement

## Transnational Law

- Cross-border contracts
- Commercial arbitration
- Corporate regulation

## Human Rights Law

- Universal standards
- International tribunals
- Individual protections

# Why Global Law Matters



## Globalisation Response

Addresses interconnected economic, political, and technological challenges.



## Transnational Protection

Safeguards rights across borders where national systems fall short.



## International Cooperation

Enables coordinated responses to human rights, climate, and cybersecurity issues.

# Sources of Global Law

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# Global Legal Institutions

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## United Nations

Primary forum for international law development with the ICJ as its judicial arm.

## World Trade Organization

Regulates international trade through agreements and dispute resolution.

## International Criminal Court

Prosecutes genocide, crimes against humanity, and war crimes.

# Comparative Law vs. Global Law

## Comparative Law

Studies and compares different national legal systems.

- Focus on differences
- Analysis-oriented
- Legal transplants
- Historical development

## Global Law

Creates frameworks that apply across national borders.

- Focus on harmonisation
- Solution-oriented
- Universal application
- Future development

# Challenges in Global Law

## Enforcement Limitations

International law often lacks strong enforcement mechanisms.

## Sovereignty Tensions

Nations resist yielding authority to supranational bodies.

## Legal Diversity

Different legal traditions complicate harmonisation efforts.

## Power Imbalances

Wealthier nations often dominate global legal development.

# Case Studies in Global Law

## Climate Change Litigation

The Urgenda case forced the Dutch government to adopt more stringent climate policies.

This landmark ruling established that governments have a duty of care to protect protect citizens from climate change.

## Business and Human Rights

Supply chain transparency laws now require companies to monitor human rights human rights impacts.

The UK Modern Slavery Act exemplifies how domestic law addresses global concerns.

## International Arbitration

Investor-state disputes balance corporate rights with public interest.

These cases demonstrate tensions between investment protection and and regulatory autonomy.

# The Future of Global Law

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## AI Integration

Artificial intelligence will reshape global legal frameworks and practice.

## Private Norm-Setters

Corporations and NGOs will play larger roles in shaping global rules.



## Institutional Reform

International organisations will adapt to address representational imbalances.

## Global Constitutionalism

Constitutional principles may increasingly transcend national boundaries.



# Skills for Global Law Practice

## Cross-Cultural Analysis

Understanding legal concepts across cultural contexts

## Multilingual Research

Accessing and interpreting legal materials in different languages

## Institutional Knowledge

Navigating complex international organisations and procedures

## Digital Literacy

Mastering cross-border legal technology and data management

Global law should be understood as an alternative or as a parallel concept to the state-centric International law (?)

Global law should replace International law, just as  
International law once replaced the Roman conception of *ius  
gentium*(?)

Global law should occupy the apex of the legal pyramid (?)

Is Global Law merely a trendy/romantic theory (?)

or,

are there concrete and factual elements allowing submission of strong evidence of a movement toward the creation of a stand-alone Global law (?)

Can Global Law be put into some **definition**?



Is there a definitive list of the most important questions in Global Law?

Would answering them all give us a comprehensive and complete understanding of Global Law?



If we want to properly discuss and understand Global Law, what should we discuss?

What are the true units of understanding Global Law, and how many are there?



Global Law ambition is to cover much more ground than just choice of law or competent court selection

It challenges our traditional understanding of human, power, the Law and its relations with morality

Global law as a multinational, multicultural and multidisciplinary legal phenomenon

How is it possible to tame global constitutionalism in order to avoid a global Leviathan?

How to overcome the divide between natural and positive law?

How to deal with the dispute between cosmopolitanism and nationalism?

Global law cannot be reduced to 'law' in the singular or to a single 'map'

## Global law consist in:

- an extended territorial and time reach,
- an extended jurisdictional scope,
- the re-conceptualisation of international personality away from states to Humans,
- the institutionalisation of Humanity's law.



Global law should/could function as "legal phenomenon" rather than "legal system" (?)

Is it better to be nothing than not to be everything?

Power relations— legality - integration - collective guarantees

Global law must concern itself explicitly with:

- power relations;
- domination;
- questions of justice.

The main models of **international justice**, which are now at discussion:

- (1) the Westphalia paradigm;
- (2) moral cosmopolitanism;
- (3) institutional cosmopolitanism;
- (4) World State.

Global justice?

To what extent, if any, a global shift of law can proceed absent a transnational democratic check?

# The problem of democratic deficit in Global law



Why the world needs yet another moral stance?

# Utopia of Commons

No code of just one person, one culture, or even one civilization is objectively worthy enough to be imposed universally upon humanity

But it does not follow that Human intelligence is not worthy of all humanity.

Humanism can be objectively studied, rationally debated and evaluated,  
there are justifiable ways to determine better and worse moral norms,  
and important moral norms can be reasonably recommended for all Humans.

Global law – as a Human-centred law with human rights at its normative core

Human(s) should be acknowledged according to an institutional, cultural and moral point of view

The global community of individuals beyond borders should be based on Human dignity understood as its material source of law

Global law redline some traditional theses and to adapt them to the new features of the global scenario, with strong its commitment to Human rights, democracy and Law



Global law is a specific proposal in the legal debate, the goal of which is the application of law at the global level to achieve the universal real guarantee of Human rights

Global law is/should be based upon a **merger of Humanitarian and Human rights law** that manages conflict and violence

What is our Problem?

Illusion(?) of explanatory depth

# Unknown unknowns in (Global) law

## The true knowledge:

- to know that we known what we known,
- to known that we do not known what we do not known

## Real – life dilemmas

Illusions of knowledge

Overconfidence in knowledge

Law cannot be a play on words, an extravagance, a set of wishes for being and the world

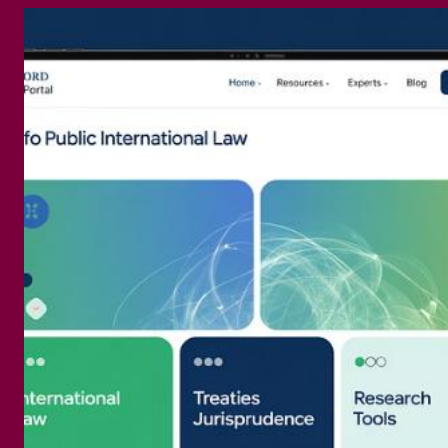


We cannot think about Law with colored words and  
colorless thoughts

# Intellectual arrogance and its consequences

Knowledge hygiene as foundation of law

We do not see things as they are, we see things as we are



These foundational texts and digital resources provide deeper insights into global legal frameworks.

# Q&A / Discussion



## Current Events

How do recent developments reshape our understanding of global law?



## Critical Reflection Reflection

Where do national and global legal roles complement or conflict?



## Future Challenges Challenges

What emerging issues will demand new global legal responses?



## Career Pathways

How can today's law students prepare for global legal practice?



# Questions?



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**<https://web.vu.lt/tf/j.gumbis/global-law/>**





# Thank you



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