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Legal Challenges in Transnational Environment

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Challenges of Law

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Fit for the times we live in

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The end of the Cold War created a dangerous illusion that the end of history had come, that free trade would replace statehood; that the overused thesis of a ‘rules-based order’ would replace national interests; that we live in a world without borders, and that every individual is a ‘citizen of the world.’ These ‘stupid ideas’ ignored the lessons of history and human nature.

(M Rubio, Secretary of State, 23.02.2026., The Munich Security Conference)

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"If you are not at the table, you are on the menu.„

(Canadian Prime Minister Mark Carne,World Economic Forum in Davos 21.01.2026).

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Challenge of the traditional discourse?

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Are we lost/mistaken about certain fundamental aspects of Law?

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Living through uncertainty

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The present is as uncertain as the future

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We live with more and more information, but with less and less meaning

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To have more information means to be more informed, but not to be wiser

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Entirety of Law Reality

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Law – Morality

Law – Morality – Politics – Markets – Science – Technology

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Law – Morality – Politics – Markets – Science – Technology **– Metaverse – Space**

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Can Law still exist as a theory of everything?

The problems are too vast and too complex for any single discipline (Law) to provide an adequate solution.

"Law looks outward"

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Economics, psychology, philosophy, anthropology, and history—all these are resources for the "external" critique or supplementation of Law (?).

The knowledge we will need in a few years has not yet been born.

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True understanding can begin only with naked reality, not with a deceptive ideal. (Carl Jung)

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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 the International Law?

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

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

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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?

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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?

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?

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Why are we so terrified of uncertainty?

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We must learn to live with unsolved problems.

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True intelligence is not defined by how much you know, but by how well you handle what you do not know.

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We measure an individual's intelligence by the quantity of uncertainties he is capable of bearing. (Immanuel Kant)

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In a world that demands a status update for every situation, the highest form of intelligence is the ability to maintain focus while surrounded by ambiguity.

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The greatest enemy of knowledge is not ignorance, but the illusion of knowledge. (Stephen Hawking)

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Illusion of clarity versus meaningful ambiguity

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I love to doubt just as much as I love to know (Dante)

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The unknown can not be used to instill a sense of impossibility

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

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To find deliverance from the tension of opposites

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Intellectuality – the totality of higher human abilities

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A Rational Person:

- empathetic – senses what others are thinking or feeling,
- sees and comprehends the totality of reality,
- adaptable – understands a changing reality,
- self-aware – recognizes the extent of their own ignorance,
- passionately curious,
- open to alternative solutions,
- self-controlled,
- capable of sustained focus on the issue at hand,
- able to draw parallels between seemingly disparate ideas,
- always asks about the meaning of it all,
- seeks out their own shortcomings.

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An Intellectual Person is able to:

- solve problems based on abstractions and general knowledge,
- perceive the entirety of comprehensive reality with all its forms and relationships,
- orient oneself in reality, generalise the images formed,
- express in words the content of one's consciousness, including the psyche;
- memorise, retain and reproduce information, emotional and practical experience,
- determine the content of quality and quantity, relationships, and make use of them,
- determine causality, regularities and generalise them,
- speak figuratively and expressively.

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

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We cannot think about Law with colored words and colorless thoughts

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Time to think

Time to act

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Overthinking vs Making a decision with little thinking

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“Thinking is difficult, that’s why most people judge.” (Carl Jung)

Law: a composite whole

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Can the definition of law be created by the means of removal or addition?

Defining Law

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

David

Michelangelo

1501 - 1504

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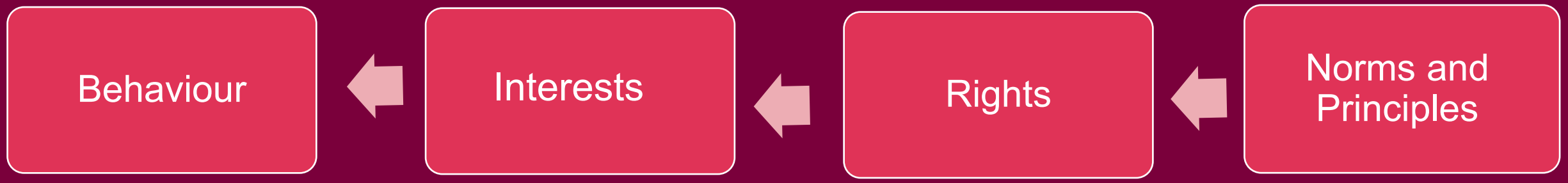

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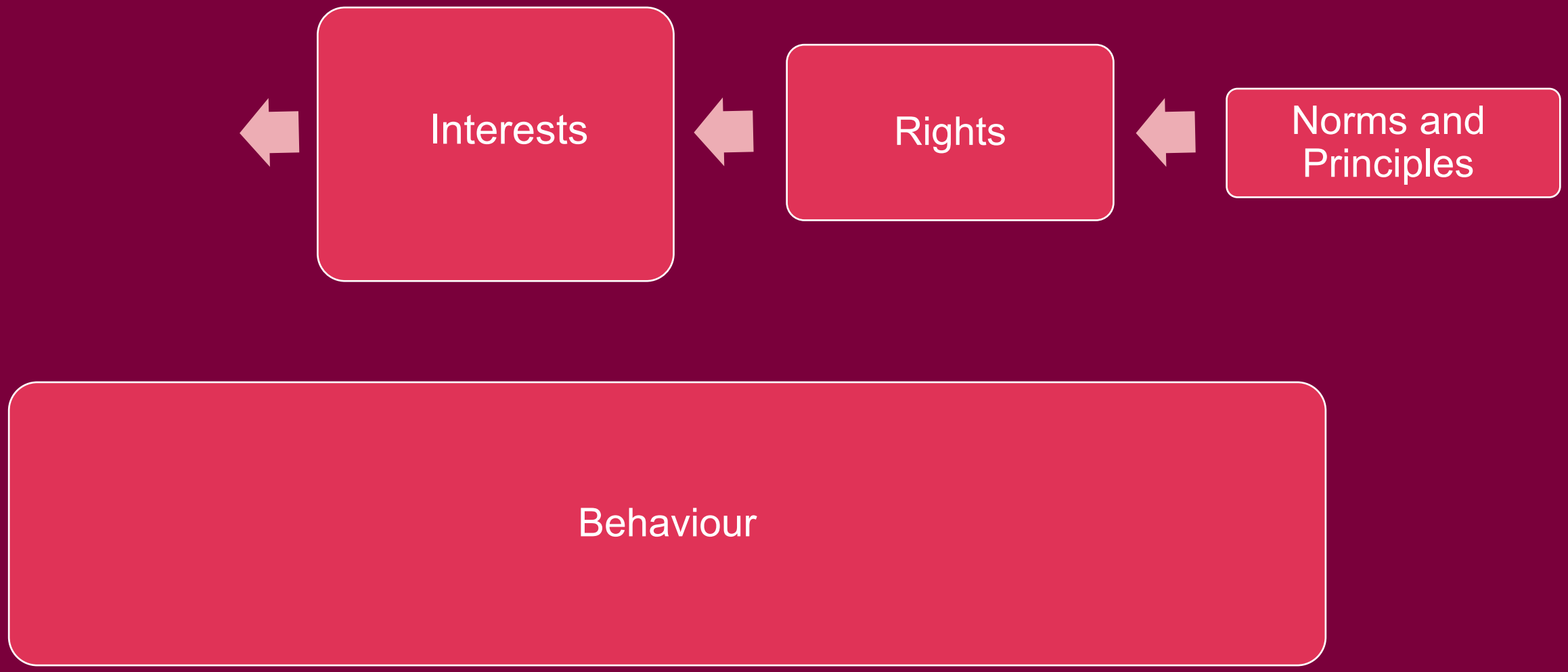

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How a Human can understant Law;

What a person can understant as Law.

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The official Law;

Law in books;

Law in action;

Living Law.

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Current legal challenges

1.1. The Global Nature of Law
1.2. Technology, finance, enviromental issues, etc.
1.3. EU dimension challenges
1.4. Ecology of Law
1.5. Capacity of Law
1.6. The Value of Truth
1.7. The Problem of Free Will
1.8. Recognition of Different Consciousnesses
1.9. New challenges for the doctrine of the Separation of Powers
1.10. Definition of a Human
1.11. Global Law

1.1. 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.

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Traditionally, law has been understood as a phenomenon operating in a specific territory and time. Nowadays, this is no longer the case.

The distinction between domestic and foreign legal orders/affairs of a state is the vital presupposition without which *no sense* could be made of international law, especially in those situations in which **international law** allows for intervention in the internal affairs of a state.

International/Global problems have become too complicated to be effectively resolved by individual national governments.

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Main factors change:

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

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- Issues before the U.S. Supreme Court trigger international public discourse; **EU law** influences the functioning of EU candidate countries.

- International study opportunities shape the perception and awareness of Global nature of law.

- The increasing complexity of legal sources.

- The diminishing power of the Westphalian state system on law.

The Global Nature of Law OPPOSITION

States that traditionally led the way in shaping Global legal environment are surrendering space as a consequence of reduced Global power (e.g., U.S., UK).

Thus, slowly rising nationalist sentiment is becoming a way for them to maintain their influence on Global legal challenges (e.g., Brexit; U.S. withdrawal from the Paris Agreement).

The Global Nature of Law OPPOSITION

As a result of resurgent nationalism, some areas of the law perceived as liberal become vulnerable to attack (e.g., overturn of Roe v Wade).

At the same time, other countries (e.g., **China**) see the Global nature of law **as** an opportunity to satisfy their interests.

While States will continue to be of central importance into the future, finding a consensus on the short-term perspective is proving to be extremely difficult.

For instance, unanimous voting in the EU is **seen as slowing down decision making and preventing progress**, notably in the context of war in Ukraine.

Therefore, a **more general concept of the Global legal order is required** that does justice to our current condition of Global legal pluralism.

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Environmental Issues:

Environmental issues such as climate change, deforestation, and ocean pollution are **Global in nature.**

Therefore, these problems require Global cooperation and collaboration to address.

National legal systems may struggle to address these issues effectively.

1.2

Technology

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Technology

In terms of technology, law is born in response to innovation.

"Edwin, now that the scientists have invented the atom bomb, it is up to you lawyers to find away of controlling its use." (Law in a Scientific Age, 1963)

We can never know what the consequences of technology will be and it is impossible to predict and control all of them (?)

1.2

Principle-based regulation vs. rule-based regulation

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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.

A Human is the only animal in the world that has language (Aristotle)

Nowadays we do not read faster than Aristotle

America's top student reads 450 words per minute

A computer – trillions of calculations per second

A Human has limits on memory resources, a computer does not

LEGAL CHALLENGES

- **Delayed regulation**. In the past, international trade was overseen by shared laws and agreements. Now, technology allows for a distributed network in which everybody is connected to everybody – but the laws have not kept pace with that revolution;

- **Explainability and transparency**. As computers can be programmed to make their own decisions, it will be challenging to conclusively determine the reasons behind AI's course of action;

- **Instability.** Technology could spark "creative destruction", where old jobs are destroyed and new, more productive ones are created. But this could create economic volatility that will need to be controlled;

LEGAL CHALLENGES (II)

- **Equality.** Machines function based on what Humans tell them. If a system is fed with Human biases (conscious or unconscious) the result will inevitably be one-sided, thus reinforcing discrimination and prejudices under the guise of objectivity.

For example, Amazon‘s AI machine used for recruiting employees discriminated against women. It had to spot potential candidates on the web, rating them from 1 to 5. But the algorithm learned to systematically downgrade women’s CV’s for technical jobs, such as software developer.

LEGAL CHALLENGES (III)

Within the next four years, **30% of all organizations** in the world will have products and services ready to metaverse

KPMG forecasts that Metaverse could generate as much as **$13 trillion** in revenue per year by 2030

4.55 billion active social e.media users

LEGAL CHALLENGES (IV)

The relationship between the **physical world** and **virtual space**?

Whether they are equivalent or whether the physical world is even losing or potentially losing influence over virtual space?

LEGAL CHALLENGES (V)

A lawyer or other legal advisor will be needed in the virtual space.

It's just not clear what kind of lawyer is being talked about: a lawyer as a person or just a **simulation (algorithm) of a lawyer**?

LEGAL CHALLENGES (VI)

Is there a threat to the monopoly of the power of the state, as **virtual space becomes a separate, independent territory**, competing with the physical world (although metaphysically equivalent), where other and independent rules can be applied?

Dark net as the territory in the territory

LEGAL CHALLENGES (VII)

People's parallel existence in the virtual space is based on Big Data

Who controls Big Data?

1.2

Big Data and Digital Power

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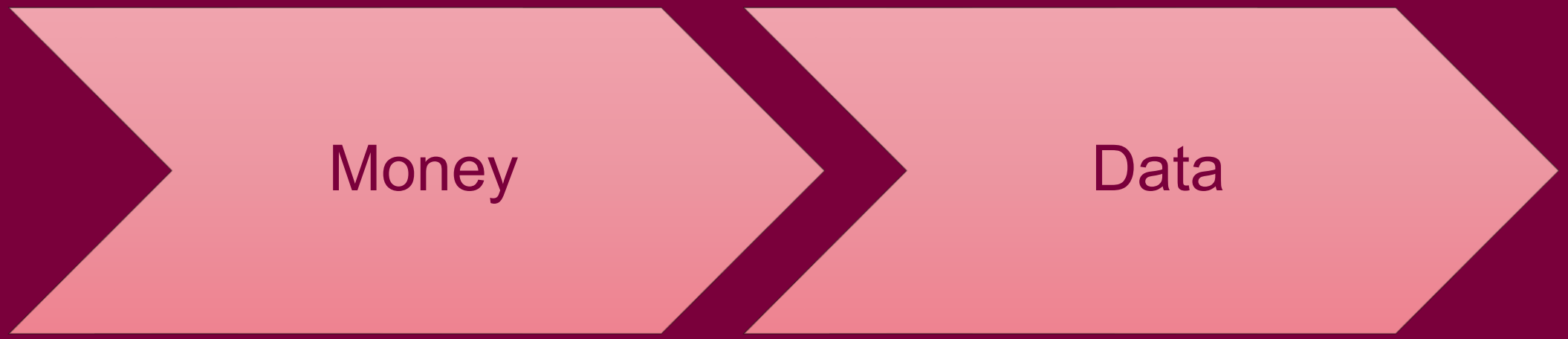
Big data:

„There were 5 exabytes of information created between the dawn of civilization through 2003, but that much information is now created every two days“

- Eric Schmidt, Executive Chairman at Google

Big data: power shift



Money can buy influence and power

Big data can be used to target and manipulate individuals or groups in more precise and personalized ways.

Digital Power (I)

Does (bigger) Big Data create (bigger) Digital Power?

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Digital power (II)

Big data:

Does this lead us to consider Mark Zuckerberg (Meta) as most powerful person in the world?

Digital Power (III)

After **400 searches** on the computer, the computer knows more about you than the people closest to you

Digital Power (IV)

After **800 searches** on the computer, the computer knows more about you than you know yourself

Digital Power (V)

The legal instruments created in the world to fight crimes occurring within the borders of individual States are by their very nature **inadequate to fight digital/virtual crimes**

Digital Power (VI)

Technology does **not cause problems** but is **an organic drive** to further model the regulation of people according to a changing **perception of reality** in which the individual and the environment coexist

Can we ensure the regulation of the near future with our current knowledge of the law?

The knowledge that we will need in the future has not yet been born

Finance

Power:

The growth of international trade, foreign investment, and the expansion of financial markets have all contributed to the increased interconnectedness of finance.

For example, the 2008 Global financial crisis began with the collapse of the US housing market but quickly spread to other countries through financial linkages.

Money & Power: Blackrock

Blackrock now manages over $10 Trillion in Assets all over the world

Are national legal systems capable of dealing with such a company?

https://www.wsj.com/articles/blackrock-now-manages-over-10-trillion-in-assets-

Money & Power

If the US has such an influence around the world, shouldn't the world in turn influence the US, e.g. through elections?

1.3. Current legal challenges within the EU

Issues within the EU

At first established as an economic union, the EU has over time, little by little expanded its competences into areas generally reserved to sovereign states, thus becoming *political union*.

Democratic values (e.g., respect for Human rights, freedom, the rule of law) enshrined in Article 2 TEU – one of the prerequisites for EU candidates to accede – **were *non-existent* in the EU Treaties up until the Maastricht Treaty of 1992.**

Regardless, as they are now drafted, the Treaties (essentially *the law*) still **have countless legislative** gaps to keep pace with the Union's rapid integration. They **are not ready to secure the political objectives of the Union**.

Issues within the EU (II)

Treaty change is necessary for accession.

The most important decision-making procedures require unanimity, sometimes even twice, effectively granting a double veto to the Member State.

For example, the Treaty revision or accession processes require „double aproval“: a consensus at the European level; and ratification by national parliaments. Thus, since the EU's creation, the potential moments to veto a decision have increased from 12 to 54.

Consequently, given difficulties in adopting decisions even with 27 Member States, the law of the EU is not ready to accept new ones.

Issues within the EU (III)

Despite the EU's efforts to maintain democratic political processes in its Member States, **the Union itself falls short on democratic legitimacy**.

For one example, **the European Parliament (EP), the only institution directly representing citizens of the EU, still has no right of legislative initiative**. A near-monopoly in this process belongs to the Commission, an executive body. EP only has the right to ask the Commission to submit legislative proposals, which is not binding on the latter.

Repeated attempts have been made by EP to acquire this right, but this is not possible without a change in the institutional balance, achieved only through revision of the Treaties, which has consistently been opposed by the Commission.

Issues within the EU (IV)

The current situation in the EU shows that the law fails to follow behind the rapid integration of the EU and the goals and interests of its institutions.

It has to be adapted from time to time to ensure the legitimacy of political decisions.

In fact, the law becomes an obstacle to the further development of the EU.

Thus, revision of decision-making processess established in the Treaty is necessary, and such process is complex and lengthy as well (e.g., it took 8 years to draft Lisbon Treaty).

Economic union into a **Political** union into a **Legal** union (into **Military** union?)

Has the EU by transforming itself going the right way?

What we really want from the Law?

1.4. Ecology of Law

Useless laws weaken the necessary laws (Baron de Montesquien)

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”.

Law cannot be cleared or leveled out

Ecological Issues of Law (II)

The attempt of the state to be in step with the Global Law and regulate most of the recently emerged spheres results in negative consequences – **Law becomes polluted with ill-considered, drastically pragmatic, quickly developed and scarcely applicable legal acts**.

Therefore, Law becomes ***unpredictable***, ***indeterminate*** and ***chaotic***.

Ecological Issues of Law (III)

The decisions of the courts are based not only on the enacted legal norms but also on certain values. For instance, justice is one of the essential criterions when evaluating the quality of the decision.

How the quantity of legal acts may affect the quality of court decisions and whole process of legislation*?*

In order to put an end to these negative trends, in the light of an objective phenomenon of growth of law, it is essential to talk about a new concept – the ***ecology of law***.

Ecology of Law and Environmental Ecology

It is possible to draw a **parallel between the ecology of law and environmental ecology**.

Similarities are evident with phenomena such as increasingly perceived indifference and inertia towards the law, the commercialization of law, and penetration of the technical spirit depersonalizing the law.

The ideas of environmental protection of the Earth could be similarly applied to law – it is essential to leave the Law in a condition that would be appropriate to perform the civil circulation (?).

Fundamental Principles of the Ecology of Law

- **Unity.** The degree of law's internal organisation determines the unity of the Human legal environment it shapes.

- **Adaptation.** Adaptation **to the reality is the only possible form of existence of law** in the surrounding world. Through adaptation, law is able to preserve precisely those features that define its essence and, in the end, remain almost unchanged.

- **Evolution.** Evolution is the optimisation of the life of law. **Maintaining a balance between the "new" and the "old"**, the traditional and the innovative, the evolving and the permanent, is one of the factors that support the ecology of law.

Expansion of Human Rights

There are currently more than **300 recognised Human Rights** (individual, social and collective) in different countries around the world.

In addition to the traditional, **first-generation Human Rights**, an increasing number of different rights are being recognised as Human Rights.

The new (fourth) generation of Human Rights is a response to the accelerated development of artificial intelligence, technology and biological manipulation.

This leads to **a dramatic increase in the number of Human Rights**.

Human Rights Inflation

Concerns:

- Traditional, fundamental Human Rights are **losing their authority and significance**;
- Countries will **need considerable additional resources** to ensure the protection of Human Rights;
- Choices will need to be made on which Human Rights to protect and defend, and **which are less important and may not be a priority**;
- The rapid expansion of the Human Rights spectrum will ultimately lead to **the collapse of concept of law**.

1.5. Capacity of Law

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?

Capacity of Law (II)

Examples:

- Handling of **immigration crises** within the EU and Lithuania;
- Overturn of **Roe v Wade**, whilst also arguing against gun control (the U.S. Supreme Court). Concurring opinion of Judge Clarence Thomas in Dobbs v. Jackson, additionally arguing against other rights than the right to abortion – rights to contraception, same-sex consensual relations, same-sex marriage;

- “The abortion right is also **critically different** from any other right that this Court has held to fall within the Fourteenth Amendment’s protection of “liberty”.” (*The Dobbs v. Jackson Decision, Annotated*).

- “Any such **right must be “deeply rooted in this Nation’s history and tradition**” and “implicit in the concept of ordered liberty”.” (*Washington v. Glucksberg*, the U.S. Supreme Court, 1997);

1.6. The Value of Truth

Nothing exists except atoms and empty space. Everything else is opinion. (Democritus)

„Everything we hear is an opinion, not a fact.
Everything we see is a perspective, not the truth.“

Marcus Aurelius

All things are subject to interpretation whichever interpretation prevails at a given time is a function of power and not truth (F. Nietzsche)

The Value of Truth

Truth is the **equivalent of reality and mind**

Language is the house of being. (Martin Heidegger)

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The Value of Truth (III)

"For today, we can only describe 4 to 5 percent of the visible universe."

- Rolf-Dieter Heuer

Former Director General of CERN (European Organization for Nuclear Research)

The Value of Truth (II)

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 value of truth is diminishing? (Roland Breeur)

Fact – information about the *real* world: what actually exists, what has been verified, is true (?), or actually happened.

Does a fact mean truth?

Truth is a correspondence between reality and consciousness/mind, to be analyzed both as practical theory and as a product of consciousness

1.6

If what is obvious is divided into parts, those parts will not appear so obvious

1.6

Which is more important: truth or the reputation of the person telling the truth (?) (Bernard Williams)

Falsehood is a necessity of life (F. Nietzsche)

Lying is always harmful because it violates the moral law (I. Kant)

A half truth better than a lie (Machiavelli)

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To be happy vs to know the Truth

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1.6

“Truth exists for a concrete individual only when he creates it himself through action”

Søren Kierkegaard

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1.6

The pleasure of finding things – Truth as practical experience

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Truth – fact - certainty – science

Is it possible to live and not know?

Truth is not an objective system but a subjective commitment (S. Kierkegaard)

1.6

Pure mathematics and logic give us no information about the world (including law), but only develop the means for describing it.

The finitude of truth

There is no “knowledge” in the sense in which Plato and Aristotle understood the word — that is, in a sense implying finality;

1.6

Does science, Truth, certainty develop gradually through an encyclopedic accumulation of essential information, as Aristotle thought?

Or does it progress by a far more revolutionary method — through bold ideas?

We must leave room for doubt, or there will be no room for Truth, fact, certainty and science?

We do everything to find Truth, yet recognize the fact that we can never be sure whether we have attained it.

Scientific theories, Truth, fact, certainty must always remain hypotheses, but in many important cases we can determine whether a new hypothesis is superior to an old one (?)

This knowledge compensates many of us for the loss of the illusion of completeness and certainty.

1.6

Can we say that, in seeking Truth, we have replaced certainty with scientific progress?

Is it possible to express Truth in words?

1.6

Ludwig Wittgenstein challenges the correspondence theory of language, according to which words signify concrete things we see in the world (words coresponds to things), which is the very foundation of Western philosophy, so-called “metaphysics.”

1.6

The use of language is understood as directly shaping human behavior and actions and, only secondarily, generating knowledge through words. Creative use of words is needed, grounded in concrete actions, rather than a simple correspondence of words to things.

“Believe those who seek the truth; doubt those who find it” (André Gide).

1.7. The Problem of Free Will

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.**

1.8. Recognition of Different Consciousnesses

Recognition of Different Consciousnesses

Law addresses one type – Human – consciousness.

Yet, **consciousness in AI, animals, plants**, or **metaverse** creatures might be present also.

Should the law adapt and acknowledge these types of consciousnesses?

Recognition of Different Consciousnesses (II)

Examples:

- 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).

1.9. New challenges for the doctrine of the Separation of Powers

Does the division of a state's government into a legislature, an executive and a judiciary branches (**the trias politica model**) still work well?

1.9

Is the principle of the Separation of Powers still the basis of democracy if only the judiciary can make final and absolute decisions?

Should the Separation of Powers (not) be interpreted as immutable, thus giving the court the undisputed right/power to control the activities of the other two powers?

Is the Separation of Powers a constantly changing, ongoing dispute between the authorities regarding the political goals and expectations of the state?

Is it possible to separate the **Constitution (as law) from the constitutional doctrine developed by the court**? Should Parliament - the most democratic institution in power, not the court - have the greatest power to implement the Constitution?

1.9

Rule of Law vs Rule of Judges

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1.9

Political responsibility of lawyers

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1.10. Definition of a Human?

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A Human is “everything”.

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

Human is the problem and the soliution at the same time (Frans Kafka)

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A Human is a truth that cannot be denied.

A Human is the only creature who refuses to be what he is.

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

The only thing that can truly be Human is a Human being

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Human life has no meaning.

Each of us have meaning and we bring it to life.

It is a waste to be asking the question when **You** are the answer.

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To know nothing about yourself is to live. To know yourself badly is to think.
(Fernando Pessoa)

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A Human nothing more than a bundle of various perceptions in constant motion and changing at an unimaginable speed. (David Hume)

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Human life shout be understood:

Physical and mental well-being;

Belonging and recognition;

Personally treasured activities;

Spiritual closeness and connectedness.

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Stepping beyond Human boundaries as a form of life

Peripheries of Human experience and its specific features

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To be free, a Human must possess such a strong desire for freedom that all other desires must stop.

Can a Human cause harm to others by harming only himselve?

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Is freedom of a Human the greatest opposition/enemy of the Law?

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Humans have value that cannot be given, earned, or taken away by others, regardless of status, wealth, or background.

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Dignity - the unearned worth or status that all humans share equally

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Are we all different and there is no single correct way to treat everyone?

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To be equall vs to be treated equally

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We (Humans) do not see things as they are, we see things as we are

It is the duty of the human understanding to understand that there are things which it cannot understand, and what those things are. Human understanding has vulgarly occupied itself with nothing but understanding, but if it would only take the trouble to understand itself at the same time it would simply have to posit the paradox. (Søren Kierkegaard)

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Five minutes after you are born, they decide your name, your religion, your nationality and your language. And you spend the rest of your life defending things you never choose. (A. Schopenhauer)

1.11. The Global Law

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Alternative concepts of international law

Transnational law by Phillip Jessup

Transnational law intended to govern the facts or conducts that transcend state frontiers, comprising public and private international law, and other rules not included in these categories.

According to Jessup, **transnational situations involve individuals, companies, international organizations and other groups of people**.

“World law” proposed by Harold J. Berman

World law reflects the shift from a jus inter gentes structured around the state to a real international civil society, where ***law is made not only “top-down“ through the use of formal state-centered sources, but also “bottom-up”***, by means of the set of interactions that take place within this society.

Cosmopolitan law by Immanuel Kant

Kant considered it necessary to promote **solidarity not only among states, but also among individuals**.

This is done by cosmopolitan law through its fundamental constitutional principle: that of universal hospitality among Human beings.

Other alternative concepts

“Common law of mankind”, “new ius gentium”, “new world law”, “Global administrative law” and “new Global law”, etc.

Is it necessary to create new concepts or is it sufficient to modify an existing one?

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

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1. Global Legal Pluralism

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

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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

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

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It is the very difficult task of providing a clear understanding of recent developments in the 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

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3. Sovereignty vs. Global Governance

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

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

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Much need to be done to make international Law more international

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Law of nations and/vs Law between nations

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

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

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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

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

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

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

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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 (?)

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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?

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

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

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Global law as a multinational, multicultural and multidisciplinary legal phenomenon

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

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How to overcome the divide between natural and positive law?

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How to deal with the dispute between cosmopolitanism and nationalism?

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

What is simple is of genius

What is very simple is of great genius

What is great genius is God

- St. Thomas Aquinas

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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.

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

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

Global law must concern itself explicitly with:

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

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Power relations– legality - integration - collective guarantees

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

(1) the Westphalia paradigm;

(2) moral cosmopolitanism;

(3) institutional cosmopolitanism;

(4) World State.

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Global justice?

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Duty of Global justice

Do wealthy people and their countries have a duty of justice to assist poorer countries and people?

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

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The problem of democratic deficit in Global law

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Why the world needs yet another moral stance?

How to enforce compliance with the Global rules to countries that disrespect, disregard or distort international law?

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Utopia of Commons

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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.

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 (?)

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Humanism can be objectively studied, rationally debated and evaluated,

there are justifiable ways to determine better and worse moral norms,

and <u>important moral norms can be reasonably recommended for all Humans.</u>

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

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Human vs. social individual

How does the examination of the concept of Human beings as either **single individuals or social individuals** with inherent social bonds impact our understanding of Human rights and the application of law?

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

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

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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 the Law

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Dignity - an internal sense of self-worth, integrity, and honor that guides how you view and treat yourself.

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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

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

What is Global Law?

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Private International Law

Addresses conflicts between different legal legal systems.

Public International Law

Governs relations between states and international entities.

Transnational Law

Rules that transcend national borders and and legal systems.

Key Areas of Global Law

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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

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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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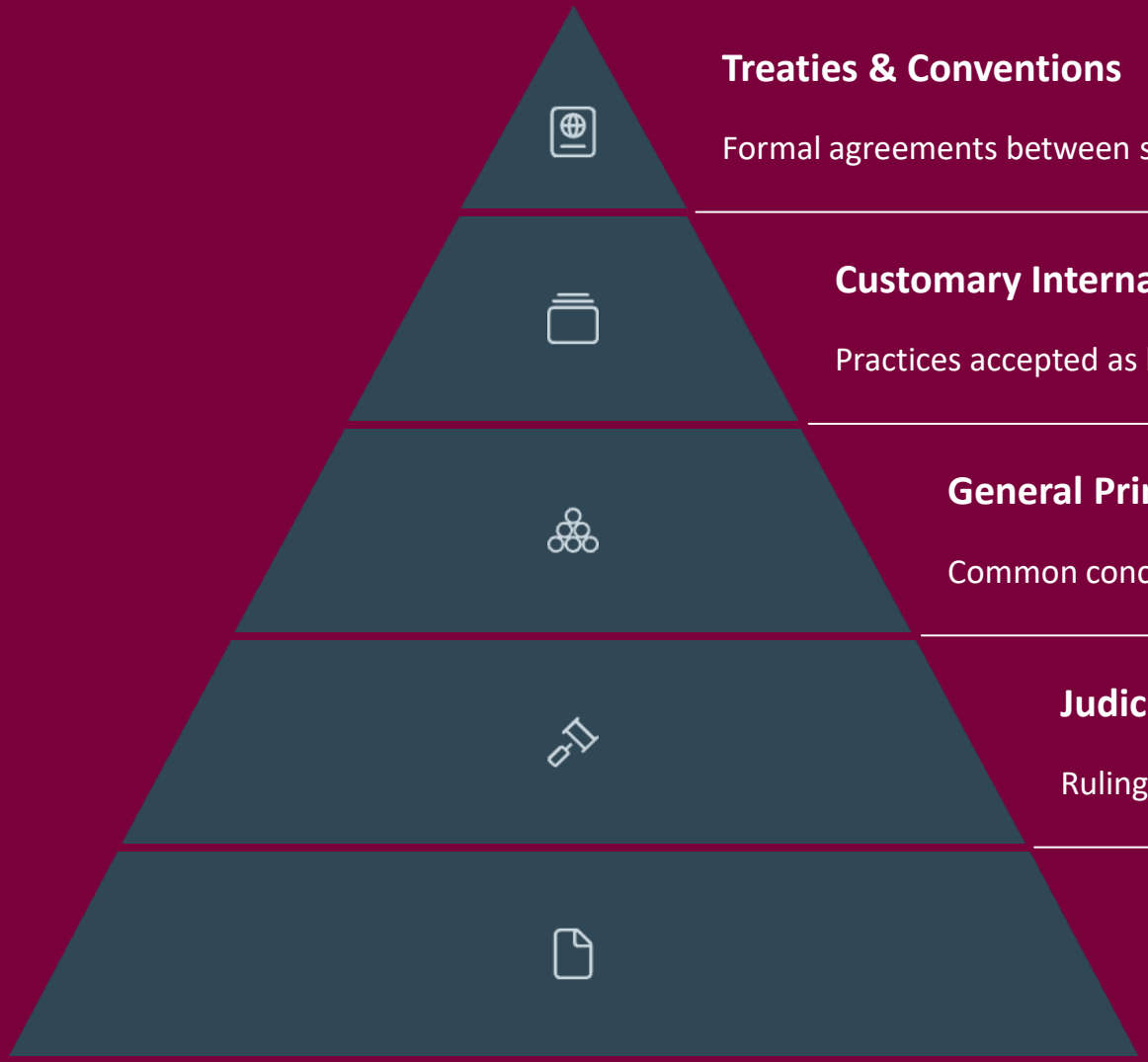

Treaties & Conventions

Formal agreements between states

Customary International Law

Practices accepted as legally binding

General Principles of Law

Common concepts across legal systems

Judicial Decisions

Rulings by international courts

Soft Law Instruments

Non-binding but influential guidelines

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

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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

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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

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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

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Cross-Cultural Analysis

Understanding legal concepts across cultural contexts

Multilingual Research

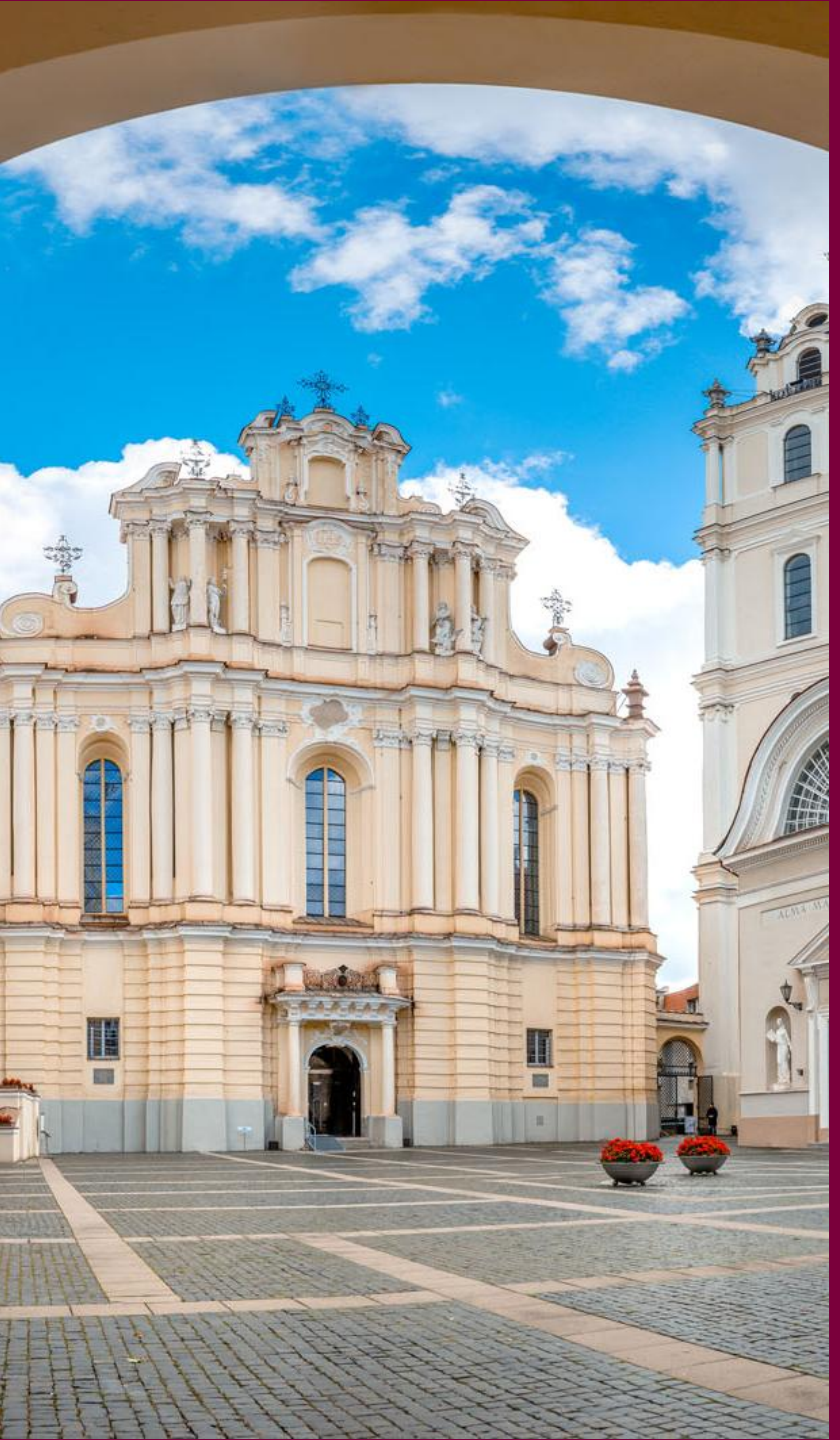
Accessing and interpreting legal materials in different languages

Institutional Knowledge

Navigating complex international organisations and procedures

Digital Literacy

Mastering cross-border legal technology and data management



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Current legal challenges

1.1. The Global Nature of Law
1.2. Technology, finance, enviromental issues, etc.
1.3. EU dimension challenges
1.4. Ecology of Law
1.5. Capacity of Law
1.6. The Value of Truth
1.7. The Problem of Free Will
1.8. Recognition of Different Consciousnesses
1.9. New challenges for the doctrine of the Separation of Powers
1.10. Definion of a Human
1.11. Global Law

What else?

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Instead of Closing

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What is our Problem?

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Illusion(?) of explanatory depth

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Unknown unknowns in Law

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The true knowledge:

- to know that we known what we known,

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

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Real – life dilemmas

Illusions of knowledge

Overconfidence in knowledge

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Intellectual arrogance and its consequences

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Knowledge hygiene as foundation of law

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Meaning is not something we find. Meaning is something we create through the way we do things, the amount of attention we give, the involvement we give, and the letting ourselves be in the process, rather than constantly jumping between stimuli.

Less noise, more silence. Less constant novelty, more repetition. Less superficial attention, more deep engagement. Because it is in this contrast that the brain begins to feel what is important again.”

Only a few know, how much one must know, to know how little one knows.

(Werner Heisenberg, the Nobel Prize-winning physicist and a key architect of quantum mechanics)

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Meaning does not arise from quantity. It arises from contrast and engagement — from the fact that something takes time, requires effort, and has a clear beginning, middle, and end.

What do we do next?

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Q&A / Discussion

Current Events

How do recent developments reshape our understanding of Law?

Critical Reflection Reflection

Where do national and global legal roles roles complement or or conflict?

Future Challenges Challenges

What emerging issues issues will demand new global legal responses?

Career Pathways Pathways

How can today‘s Law Law students prepare prepare for global legal practice?

Questions?

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Thank you

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