
Overlapping Jurisdictions and a Theoretical Framework for Interdependence between International Courts and Tribunals

A Data Management Plan created using DMPonline

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Project abstract:

The project seeks to develop a structural framework through which both negative and positive strands of overlapping jurisdictions, all interrelated through conflict and cooperation can continue to interact and help each other through interdependent relationships. Competition, conflict and cooperation all interplay between international courts and tribunals with competition influencing negative overlaps on the one hand, whilst conflict and cooperation on the other hand tend to influence positive overlaps. There are many different types of negative overlaps within international legal scholarship with fragmentation being the most talked about as a result of the proliferation of international courts and tribunals. Through a binary opposing approach, the negative overlapping strand of fragmentation is directly contrasted by interdependence and the aim of the project is to show the binary structures of positive and negative overlaps as interdependence and fragmentation. In the relationship of positive and negative overlapping relationships, the positive strands tend to provide remedy to conflicts and negative overlaps whilst the negative strands help in defining the positive strands from a structuralist perspective. Contrary to attempts to managing conflicts and negative overlaps by prohibition through regulation with traditional regulatory tools, this study applies the same traditional regulatory rules - *lis pendens*, *res judicata*, *electa una via* ILC technique (*lex specialis*), which are often seen to prohibit interaction thereby enhancing negative overlapping to illustrate their positive character which will balance the negative character when these rules are used. Analysing a number of disputes with multiple parallel proceedings will show a binary structure of positive and negative overlapping strands in which the positive strands are used to solve problems of negative conflicts and overlaps. These traditional regulatory rules will be applied alongside traditional positive tools like comity, precedents, consolidation and agreements (*jus positivum*) which are normally seen to constitute positive strands of the binary oppositions of negative and positive overlapping jurisdictions. The study combines and applies binary oppositions theory, Jacques Derrida's deconstruction and Ferdinand de Saussure's structuralism which have been previously applied by leading international legal scholars like David Kennedy of the Harvard School and author of "International Legal Structures" and Martti Koskenniemi - author of "From Apology to Utopia" which all mirror binary oppositions and relationships of meaning are made within the international legal system. Applying this format in the analysis and development a structure of interdependence will illustrate how overlapping jurisdictions evolve into positive and negative overlaps in which the positive overlaps help a better understanding of the negative overlaps and to better tackle problems of conflict and negative overlapping jurisdiction like fragmentation.

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Manchester Data Management Outline

- Yes

Project is already funded by the University of Manchester.

- Yes - only institution involved
- Generate textual supporting information only

Existing scholar works in books, journals, case reports, court decisions, analytical indexes in overlapping jurisdictions of international courts and tribunals.

- University of Manchester Research Data Storage Service (Isilon)
- Not applicable
- Not applicable
- > 20 years

For a life time in the University of Manchester Data Vault

None

Not applicable

- Not applicable

Not applicable

- Not applicable

Not applicable

The University of Manchester

02/05/2019

Project details

The purpose of the research is to develop a theoretical framework for interdependence or a structure of interdependence between international courts and tribunals.

There are no ethical issues involved in the research and therefore no requirement for data sharing and data security.

Responsibilities and Resources

I as the PI is responsible for data management with supervision.

The University of Manchester
Office Space
Computer, printer and stationery. All the above have been provided.

Data Collection

Scholarly materials from published books, journals, primary legislation, international conventions, agreements, case reports analytical indexes would be used to generate data.

Through library and desktop research.

Documentation and Metadata

Question to be revisited upon completion of project.

Ethics and Legal Compliance

There are none

I will own authors rights. The university will have the right for third party usage.

Storage and backup

Data will be stored by the University of Manchester Research Data Storage

There are no access and security concerns or restrictions. However, care is taken to make sure no one else publishes my work before it is published.

Selection and Preservation

Not applicable

The project is meant for future researchers. So it is up to the university to preserve it for the longest term possible.

Data Sharing

No intention to share any data. All data will be accessible through the university which is out of my control.

Not applicable