

International Law: Interdisciplinary Trends and Emerging Futures

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Emily Jones, an international lawyer

About the Author

Dr Emily Jones is an international lawyer whose interdisciplinary work combines theory and practice. Her work cuts across: gender and international law; international environmental law; science, technology and international law; posthuman legal theory; gender and conflict; and political economy, imperialism and international law. Emily has one co-authored book in press with Zed entitled 'The Law of War and Peace: A Gender Analysis (Volume 1)' and is working on Volume 2 with her co-authors. She is also co-editing two volumes: the 'More Posthuman Glossary' (Bloomsbury) and 'International Law & Posthuman Theory' (Routledge). Further to this, Emily is working on her monograph (forthcoming with Routledge's GlassHouse series).



World Humanities Report:

International Law: Interdisciplinary Trends and Emerging Futures

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This report identifies a few key emerging themes in international legal scholarship and notes some areas where further research is required, focusing on: science, technology and international law; international environmental law; and social transformation and addressing global inequalities.

Science, Technology and International Law

International legal scholarship is beginning to focus more on technology and law. A wide array of issues are being considered within this remit including: misinformation online, including in the context of covid-19 (Abrusci et al. 2020); artificial intelligence and human rights (McGregor et al. 2018); privacy rights, for example, as applied to covid-19 apps (McGregor 2020); and the regulation of new military technologies (McFarland 2020; Arvidsson 2018; Bhuta et al 2018; Jones 2018). There is also an increase in focus on the use of big data in humanitarian contexts looking at, for example, big data and humanitarian aid and assistance (Johns and Compton 2019) and the use of technologies within migrant management (Molnar 2019; Sandvik 2018) and within refugee camps (Prasse-Freeman 2020). Another core focus is on how technologies can be used to

collect evidence to prove human rights violations, with Amnesty International, for example, focusing on digital verification methods (Amnesty International 2020) and the Forensic Architecture group bringing together scholars and practitioners from multiple disciplines to use digital and media methods to investigate human rights violations (Forensic Architecture 2020).

The traditional disciplines can no longer be maintained within our current technologically and scientifically advanced world. While scholars of international law are rising to some of the challenges posed by technology, there is much work still to be done.

The Need for Science-Based Law

One of the key issues facing international lawyers is that they do not necessarily have the expertise to be able to conduct work on science, technology and the law. In our current technologically and scientifically advanced world, however, there is a need for further science-based law and interdisciplinary scholarship. Much can be learnt from international environmental law here, where organisations such as the International Seabed Authority (ISA) and the Intergovernmental Panel on Climate Change (IPCC) have long worked with both scientists and lawyers. However, in the university, the sciences, the social sciences and humanities tend to operate quite separately. More work needs to be done within the university to bring experts and expertise together.

International Environmental Law

International environmental law is made up of a series of focused instruments which look at different parts of the environment and outline different levels of protection and obligation. There is no general obligation in international law to protect the environment in and of itself. The fragmented nature of international environmental law means that consensus can be hard to find, this being a pressing concern in the context of climate change. However, in some domestic jurisdictions, new approaches are being put forward which seek to give nature its own rights. This move has been celebrated as key step in fostering greater environmental justice. Most famously exemplified by the granting of legal personhood to the Whanganui River in New Zealand (Whanganui River Agreement 2017), other examples of entities gaining legal personhood include the Ganges and Yamuna Rivers in India (*The State of Uttarakhand and Orgs v Mohd. Salim & Others* 2017) and Bolivia's Law of the Rights of Mother Earth (2010). It is key to note that many of these claims and calls have been put forward by indigenous peoples. The call for the environment to have legal personhood and rights, allowing it to bring claims in law and in courts on behalf of 'itself,' could potentially challenge the existing anthropocentric blueprint of legal personhood (Jones and Otto 2020) and provide a more integrated solution to the fragmentation of existing international environmental law. However, international law has yet to fully consider the rights of nature. Much work remains to be done in this area.

Social Transformation and Addressing Global Inequalities

Gender and International Law

While gender approaches to international law have become an established area of both legal scholarship and practice, further work is required. International law, through frameworks such as the Women, Peace and Security (WPS) agenda, tends to focus either on women's representation and participation or on sexual violence. While such measures are indeed helpful, a wider array of issues impact upon women's lives and must be taken into greater consideration. In addition, more needs to be done to understand and dismantle the ways in which gender permeates the very structure of international law itself (Charlesworth et al. 2019). The conceptualisation of gender in international law also needs to be problematised, allowing for a focus on a wider range of gender identities. Queer approaches to international law, an area of scholarship which has developed greatly over the past few years (see: Otto 2019), will prove key here. This is again an area where more work needs to be done and particularly work which bridges theory and practice.

Race, Colonialism and International Law

While postcolonial scholarship in international law, or what is known as TWAIL (Third World Approaches to International Law) is a well-established field, with publications having been produced on a wide array of issues (see: Tzouvala 2019; Parfitt 2018; Natarajan 2012; Anghie 2005), the focus on issues of coloniality and race has been bolstered by the momentum produced by the Black Lives Matter Movement. Much more work needs to be done, however, to challenge global inequalities and seek racial justice.

Economic and Social Rights

While all rights are proclaimed to be indivisible and interdependent, rifts remain between the application of civil and political rights (such as freedom of expression or the right not to be tortured) and economic and social rights (such as the right to food or the right to health) — the latter set of rights being less widely accepted. One key reason for this division is enforceability. Civil and political rights are due process rights and are more easily enforced through courts. Economic and social rights are progressive realisation rights meaning states must seek to uphold them in accordance with available resources. These rights are far from absolute in terms of the legal obligations imposed on states and are thus harder to enforce. Economic and social rights therefore tend to be supervised by a process of constructive dialogue with states as opposed to litigation — at least at the international level. While the division between civil and political and economic and social rights is shifting, the division remains. However, economic and social rights are needed more than ever in the context of the global pandemic. Ensuring the right to health is protected and enforced is key, yet particular attention must also be paid to the impact of covid-19 on marginalised communities such as BAME communities, the elderly, people with disabilities and women, among others.

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