CALL FOR PAPERS:

Concerning States of Mind, Disturbing the Minds of States

The Third Annual Conference of the Toronto Group for the Study of International, Transnational, and Comparative Law

Faculty of Law, University of Toronto
Osgoode Hall Law School, York University

29-31 January 2010

Keynote Speaker: Martti Koskenniemi, Academy Professor, University of Helsinki

The Toronto Group for the Study of International, Transnational, and Comparative Law is pleased to announce its third annual graduate student conference. The principal aim of this conference is to encourage critical inquiry and collaborative discussion among graduate students and junior faculty members, providing a forum in which to explore the work at play in various projects aimed at historicizing and redefining international, transnational, and comparative law and legal scholarship.

Building on the work of the previous two conferences, the Group hopes to pursue the informal space that exists between Toronto’s two graduate law schools and recreate that space with a view to expanding its programmatic scale through its third conference. We would like to build on our previous collective work by emphasizing a flexible approach, which is not entirely unrelated to the fragmentation of international law and critical approaches to it. However, a historical approach to the categories of the international legal order confirms the plurality that has always constituted our disciplines, borders, states, identities, and institutions. Shunning managerialism, and in the spirit of not being professionally defined by our fields of study, we invite you to join our questioning of law and its relations with one or more of the streams detailed below.

Applicants are encouraged to submit papers that concern and disturb the existing limits and competing logics of international, transnational, and comparative law and legal scholarship. Have the definitional boundaries and binaries around which law has been organized truly collapsed? Or are these simply arguments for other kinds of law or scholarship? If so, what are the strategies adopted to make such arguments persuasive? For better or for worse, these concerns lead us to the question that left off previous conferences (what is to be done?) and to our reply: to think about what we are doing and to always historicize the concepts and contexts of law, lawyers, and legal scholars. We invite papers relating to these questions generally, or relating to the themes broached in one or more of the streams detailed below. This year’s streams emphasize the law and legal scholarship on: transnational corporations; global cities; national traditions in international law; migrant and indigenous approaches to international law; workplace law; trans-identity jurisprudence in transnational law; the il/legitimacy of international constitutionalization; and art’s visceral/visual challenge to black-letter law and legal regulation.

While the conference’s objective is to facilitate engagement with issues arising from these and related areas of legal scholarship, submissions from graduate students in disciplines other than law are encouraged.

http://torontogroup.wordpress.com

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Submissions Procedure

We invite proposals for presentations, panels and other interventions. Please submit an abstract of no more than 300 words by **Monday 19 October 2009**. You may specify that your submission relates to one or more of the streams below, or add a short paragraph explaining how it relates to the general conference themes. Please include all relevant contact information and indicate current title(s) and academic affiliation(s). Authors of all submissions will be notified by Monday 9 November 2009. Submissions and general inquiries should be addressed to torontogroup2010@gmail.com.

This year, presenters can submit their completed papers to the [Comparative Research in Law and Political Economy Paper Series](http://www.comparativeresearch.net/) as part of a special event publication. Additional information will be made available closer to the conference date.

Organizing Committee

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Streams

1. **Stories of the Gently Civilized: National Traditions in International Law**

   International lawyers come from somewhere: they have roots, identities and commitments. And yet the discipline of international law often requires that these roots be buried. In the past decade, many scholars have critiqued this tendency, using historical and biographical methods to examine the place of subjectivity and situatedness in international law. In particular, many have focused on nationality and the question of national “schools” or “traditions” – a focus that also raises the possibility of “comparative international law.” In this stream we invite those pursuing such inquiries to contribute to a broader conversation. How is international legal discourse related to national history, culture, philosophy, politics? Can we bring these insights to bear on the perennial question of the relationship between international and domestic legal systems? How can investigations of particular national traditions contribute to international legal theory or practice (or critique)? What can international lawyers learn from comparativists, and vice-versa?

2. **Can More Carrots and Fewer Sticks Ensure Accountability? Implications of the Current Framework for Regulating TNCs**

   The expansion of transnational corporations’ (TNCs) participation in the global economy continues unabated. Their foreign direct investment (FDI) in 2007 reached $31 trillion; equivalent to 11% of global GDP (WRI 2008). This growth has been encouraged by a wave of regulatory and policy changes in the national and international arenas aimed at facilitating outflow and attracting inflow of FDI. Nation-states and multilateral institutions have, on the other hand, been much less active in devising clear and direct regulations and policies ensuring that TNCs are accountable for the potential negative impacts of their growing operations abroad. Since the UN attempts at brokering a binding code of conduct for TNCs failed in 1992, efforts have shifted to a more collaborative approach towards these corporations. Many argue that TNCs are in fact subjected to a novel form of corporate accountability – one based on transnational regulation composed of a complex and multilayered combination of voluntary corporate self-regulations, multi-stakeholder processes and market- and society-based sanctions and incentives on both national and international levels. Others contend that TNCs are instead operating in a legal vacuum and advocate for international regulation and/or extraterritorial regulation from home countries to ensure accountability.
This stream invites contributions from those researching the various discourses and mechanisms related to the accountability of multinational corporations. We especially welcome papers presenting an interdisciplinary analysis of how international law is responding – or should be responding - to this evolving scenario.

3. Legitimacy Lacuna: International Constitutionalization and the Way Forward

The legitimacy lacuna at the international level is a vexing and complicated matter that has preoccupied many scholars and practitioners for the last 60 years. The debate shifts between the Kantian cosmopolitan dream, the republican ideal and/or a mélange of both. Some argue for the creation of a world order through constitutionalization, while others point to the existing international structures and global democracy. Skeptics point to bare politics and historical and ongoing colonialism/imperialism as possible impediments to the creation of this utopian dream. In reality, however, this lacuna is causing serious problems within the current regime as exemplified by the recent legal challenges and the conflicting approaches adopted by the leading adjudicatory bodies. In this panel, scholars are encouraged to ask: Is international constitutionalization possible? Is it a worthwhile project? What are its narratives and what are the implications? Who will benefit and who will be disadvantaged? Does international constitutionalization signal the end of the Keynesian-Westphalian state?

4. The Trans- in Transnational Law: Recognizing Sameness, Mitigating Difference

Identity politics has spurred some of the most controversial scholarship and legal decisions in recent history. Whether it is feminist conceptualizations of the self and other, race and ethnicity and ethical responsibility of the self, or queer identity and heteronormativity, the debates have pushed the modern layperson’s understanding of identity to the limit. New labels are being constructed, de-constructed and re-constructed as a direct response to these constantly changing and evolving definitions of how we see each other and ourselves. Yet, how does the law cope with these changing norms – as opportunities or as challenges? Can it cope? Scholars are encouraged to think about how the law recalibrates its understanding of these newly formed identities, historically relegated to the outlier, and how they become actuated? What are the costs and benefits of such recalibration? How are other nation-states, regions and international bodies dealing with the evolving nature of identity and sexuality?

This panel hopes to bridge the divergent narratives of the different jurisdictions and seeks to bring together scholars working with jurisprudence from domestic courts or tribunals (e.g. refugee law), regional courts (e.g. European Court of Human Rights, Inter-American Court of Human Rights) and international treaty monitoring bodies.

5. Workplace Law in the 21st Century

As the North American automobile industry, the birthplace of Fordism, falls into bankruptcy, the field of workplace law is suffering from an existential crisis. We write about the rise of the non-standard workforce, its precarity and the inability of laws based around a bilateral contract of employment to offer basic socioeconomic protections to workers. We grapple with the implications of the move from lifetime employment to short term employment in the apportionment of responsibility for social and economic protections. We understand this story as a global one, in which entire industries can be exported and minimum standards are “too expensive” for all concerned. What happens to the dream of collective organization when middle class workers have acquiesced to the idea of exploitative working hours, and come to view striking workers not as beacons of courage but as ungrateful wretches who should feel lucky to have a job? How did this shift in belief come to be so internalized? How should we think about the increasing international division of labour along “knowledge” and “manufacturing” lines? (And what are the implications for people in the first world who are not part of the “creative class”?) In this stream, we invite reflections on the world of labour and work law in the 21st century. Where should those concerned with work and labour draw their legal and political inspiration? On what basis should they stake normative claims that are both humanely and economically viable?
6. Art as a Challenge to Law

Hannah Arendt suggests that our notion of the aesthetic is inherently framed by the political, just as art can frame political expression. In this stream we seek to explore the political nature of law in its regulation of artistic expression, and the ways art can act as a challenge to law.

An antagonistic relationship between art and law is visible most explicitly in the post-modern art movement, which seeks to challenge any definition of artistic expression, artistic purpose, creation and originality, thereby making it difficult for lawmakers to draw a line around what they wish to protect, or to articulate a rationale for its protection. But it is a theme that runs through the history of artistic regulation: a historical eye reveals much about the production of social hierarchy, if one considers where boundaries have been drawn and by whom, to determine the types of expression considered socially acceptable and worthy of legal protection, as opposed to those that are not a matter of law. The difficulties of legal regulation become all the more emphatic as technological advances permit new methods of creativity, ones which can defy and challenge existing legal boundaries. Questions about the political nature of artistic regulation therefore make themselves felt in copyright, trademarks, intellectual property law, constitutional protection of speech, the regulation of pornography, state funding of public spaces and museums, etc. This antagonism indeed suggests something further: artistic regulation reveals the ridiculous qualities of the law, as it attempts to mediate the messy, sensory and visceral effects of artistic expression, through its formal, definitional and technocratic language. In these areas of doctrinal struggle the formality and inflexibility of the law is highlighted in contrast to the constant flux of artistic creation, which elides solid categorization. In this stream we invite any manner of meditations on the relationship between art, politics and law, in answer to the questions posed above or in regards to as yet unexamined areas of their intersection.

7. A House Not Yet a Home: Master-Servant Relationships in International Law

International organizations, conventions, declarations, protocols, treaties, and agreements have long sought to regulate (and sometimes improve) the conditions of both migrants and indigenous peoples. However, one common denominator between these two groups also remains an obstacle to changes sought from the bottom-up as well as from the top-down: settler-society sovereignty. This stream invites papers or panels focused on the parallel and intersecting challenges faced by migrants and indigenous peoples in North America and beyond. How well does international law serve people when they cross state borders – for work, for protection, for family, or otherwise? Similarly, what have been some of the responses in international law to situations where state borders have crossed peoples? Is international law suitable to address these issues given its fraught history in justifying and maintaining contested and contestable state borders and categories of legal personality? Do Third World Approaches to International Law (TWAIL) provide opportunities for resistance, or are other approaches more relevant (Fourth World, Fifth World, and/or social movements)? Papers from those researching social movements, citizenship & immigration, refugee, labour, indigenous, TWAIL and critical legal studies would be especially welcome.

8. Global Cities and the Law: Opportunities for Justice or Just Opportunities?

Literature on global cities, transnational spaces, and local assemblages of territorial authority and denationalized rights marks a unique opportunity for interdisciplinary scholarship and research by lawyers on the law’s urban impact from diverse disciplines outside the law. This stream invites papers or panels interrogating economic approaches to the construction and maintenance of global cities as sites for the cyclical rise, decline, concentration, and transfer of capital and labour within and across nation-states. What do these now-standard accounts of global cities fail to mention about the space “where the work of globalization gets done”? Do global cities actually present opportunities for justice, or are they just opportunities – to “get in, get ahead, or get out” characterized by the conflict of worldwide competition and increasing class polarization and ethnic differentiation? Papers comparing multiple global cities within or across countries are especially welcome, as are those taking a long view of the conceptual recognition and intellectual history of global cities.