
International Law, Linguistics and Experimentation (IntLLEx)

International law scholars have always studied interpretation. More recently, they have turned to linguistics, although in doing so they have tended to rely on older theories. Only in recent years have they turned to cognitive pragmatics as a part of modern linguistics. Pragmatics as a sub-discipline of linguistics focuses on the dimension of language meaning that emerges in context, i.e. through language use. Cognitive pragmatics focuses on the operation of the human mind in this context. Recent research has developed a precise typology of pragmatic interpretations in cases where meaning is not explicitly expressed in an utterance. The present project intends to combine international law with cognitive pragmatics. Specifically, in line with the trend towards experimentalism in both cognitive pragmatics and international law, it aims to implement an experimental study to test its claim, namely that the mentioned typology can be fruitfully applied to the interpretation of international law. International law prescribes that interpreters take into account 'ordinary meaning' when interpreting an international treaty. Currently, however, where a treaty text does not contain an explicit solution to their problem, interpreting agents such as courts often quickly move from the ordinary meaning to other means of interpretation, thereby neglecting their interpretive obligation. Pragmatic interpretations could offer a solution to this problem. If pragmatic categorisations such as the one suggested by Ariel could be applied to law, interpreters would be able to pinpoint the relationship between their inferred interpretation and an actual treaty provision with more precision. They could, therefore, take 'ordinary meaning' seriously. This would have a substantial impact on ongoing debates in international law on judicial activism or on courts as law-makers, but also on the more recent backlash against international courts. At the same time, the project could confirm Ariel's typology by way of experiment, and thereby also contribute to pragmatics. Additionally, the influence of moral and political reasoning on the processing of the ordinary meaning of legal rules can be assessed.

The project design foresees, first, the drafting of international law scenarios (short cases) which are then given to experiment participants. The expected outcome is the confirmation of the typology in the abstract, but also of its concrete applicability in the context of international law, as well as a measurable influence of moral and political reasoning on ordinary meaning processing. The participants would be recruited from among laypersons, law students and international law experts. If successful, this project could contribute substantially to each of the disciplines mentioned above, but also to interdisciplinary research. Even non-conclusive results could provide insights into how to refine the typology or how the different participant groups fare comparatively.

Apart from experiments and the presentation of results at various workshops and conferences, the project also comprises a final workshop to discuss the project results with like-minded researchers.

Researchers

PD Dr. Benedikt Pirker (principal investigator)

Dr. Izabela Skoczen (postdoctoral researcher)

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