

Joint Workshop: ESIL Interest Groups on International Organizations and International Health Law

Call for Papers | ESIL Annual Conference 2021 | Stockholm



The ESIL Interest Groups on International Organizations and International Health Law welcome submissions for the interest group workshop taking place as part of the 16th Annual Conference of ESIL in Stockholm on **Wednesday, 8 September 2021**.

Theme: International Organizations' Action in Times of COVID-19: Law-Making by Expertise and Soft Law

International organisations have been at the heart of perceived changes in the nature and practices of contemporary international law-making. It has been well-known for some time that the acts and resolutions of UN organs, agencies and other international institutions have impacted contemporary law-making, whether in terms of treaty negotiation or customary norm formation. Moreover, international lawyers are increasingly concerned that the normative impacts of the “global governance” activities of international institutions, whether formal and informal, intergovernmental, non-state or mixed/public-private, are “de-centering” the traditional sources of international law in favour of more flexible, “softer” and more fluid regulatory norms.

These trends played a key role during the catastrophic COVID-19 pandemic. Recent events have shed light on multiple normative challenges linked to global health problems. The ensuing consequences of the cross-border spread of the disease was coupled with a series of innovative law-making processes at the international level. To name but a few examples, these processes have been at stake in: the medical and public health response to the pandemic, including the global distribution of a safe and effective vaccine; the development of criteria for trade restrictions regarding said vaccine; the mitigation of the devastating economic impact of the pandemic and the public health measures adopted by states; addressing the myriad human rights challenges through authoritative interpretation; tackling the pandemic’s impact on the maintenance of international peace and security; and fostering new and existing mechanisms for humanitarian assistance.

These issues raise a number of questions over the legitimacy and normative authority of law-making processes during the pandemic in all of the areas mentioned above, and beyond. What cuts across is a discussion on the role that experts effectively play and should play in institutional law-making processes. It is a complex debate, the theoretical and practical importance of which

cannot be emphasised enough. Given how the COVID-19 pandemic affected all areas of life, multiple types of expertise have been required for facing the manifold challenges. As a result, a number of possible enquiries come to the fore: how is expertise given legal effect during pandemics? Are certain types of expertise favoured over others? How should expert knowledge be valued against other forms of knowledge, for instance, indigenous and traditional knowledge? Given the current wave of suspicion towards experts in many parts of the world, to what extent can expertise, prevailing in law-making processes, accentuate the legitimacy deficits of pandemic responses? How has this scepticism against expertise undermined the work by international institutions in responding to COVID-19? How do lawyers, politicians, or diplomats measure and test expertise in considering the authority of institutional acts, resolutions and other normative output during pandemics?

We call for papers that might confront the question of the extent to which expertise has or should have normative value in terms of law-making in and through international institutions for facing the COVID-19 pandemic. We welcome papers that critically consider the extent to which expertise depoliticises issues of fundamental importance to international relations, especially during the pandemic – and, indeed, whether this depoliticisation itself has normative benefits or costs. In relation to the same context of the pandemic, we also welcome papers rethinking the nature and role of soft law in general, as well as the different legal authorities of actors involved in producing and implementing soft law. Papers might also address the following topics:

Expertise:

- The relevance of expertise in law-making processes led by international institutions for facing COVID-19, both in normative and practical terms.
- The challenges of involving experts in such law-making processes during the COVID-19 pandemic in terms of the mandate, structure and procedures of international institutions. Are these institutions fit for involving experts in such processes?
- The implications of international institutions' reliance on expertise in law making processes for their legitimacy and authority before States and peoples during COVID-19. How much can, and should, international organizations rely on expertise to the prejudice of other factors?
- How legitimacy is constructed through suppositions about expert-led law-making practices for facing pandemic threats.
- The interplay between scientific knowledge and international adjudication, especially in the trade arena, in terms of enhancing the authority of institutional law (broadly defined), especially when facing restrictions on the import and export of medical products.

Soft Law:

- The role and contribution of 'soft law' in governance, perhaps in strengthening or encouraging commitment to norms.
- Reflections on the relevance or nature of soft law for finding solutions to global health problems currently not envisaged in legally binding rules. A notable example is the holistic perspective towards pandemic risk of the "One Health" approach.
- The varying legal and political authority of different actors involved in the production and implementation of soft law.

Abstract Submission and Procedure

An abstract of between 500 and 600 words, together with a small biography of no more than 200 words, should be submitted by **Friday, 23 April 2021** to CoordinatingCommittee@igioesil.blog and esil.igihl@gmail.com with the following text in the subject line 'Abstract [Author Name] - Joint ESIL Workshop'. The authors of selected papers will be required to submit a 1,500 extended abstract one month before the workshop.

Given the aims and format of the panels adopted by ESIL, the Interest Group will select abstracts pursuant to the following criteria:

- Originality and innovativeness of the work
- Relevance to the theme
- Geographical and gender balance

The following information must be provided with each abstract:

- The author's name and any affiliation
- Small biography (should be included in the same document)
- The author's contact details
- Whether the author is a current ESIL member
- An expression of interest in competing for the ESIL Young Scholars Prize

The ESIL encourages anyone participating in its activities to become a member, as the Society relies primarily on membership contributions to ensure its sustainability.

Organising Committee

Catherine Brölmann, Gian Luca Burci, Richard Collins, Stéphanie Dagrón, Sufyan Droubi, Lorenzo Gasbarri, Gail Lythgoe, Stefania Negri and Pedro Villarreal.

ESIL Young Scholar Prize (YSP)

Papers accepted for this interest group workshop will be eligible for the ESIL YSP. Candidates have to be ESIL members at the time of the submission of the abstract. More details about the prize, eligibility and procedure can be found [here](#).