

LOAC, IEL and IHRL - A Story of Vanishing Borders - A Methodological Approach -

The evolution *of*, the evolution *in* law is happening. Fields of law accepted as *lex specialis*, fields of law accepted as distinct and absolute, with strict boundaries, are merging. Long accepted borders are vanishing. And new problems arise at the intersection of these fields of law.

One example at the intersection of various fields of law are questions relating to environmental protection in relation to armed conflicts. These questions are governed by the law of armed conflict ('LOAC'), international human rights law ('IHRL') and international environmental law ('IEL'). The International Law Commission's ('ILC') Study Group's Fragmentation Report has already dealt with multi-polar legal relationships, but focused on bipolar situations only, such as LOAC-IHRL or WTO law-IEL. The ILC described vanishing boundaries despite a fragmentation, highlighting a connecting element: the law of treaties and treaty interpretation.

In another ILC project, the Draft Articles on the Effects of Armed Conflicts on Treaties, the Commission analyzed the factual effects of armed conflicts on treaties, *inter alia* as a means for suspension or termination of a treaty. It did not analyze the relationship of LOAC with other fields of law. The consequences of a co-existence of LOAC and IEL or LOAC and IHRL, the logic next step, were not addressed by the ILC. Hence, there is a need for clarification, to say the least.

In the law of treaties, legal techniques are developed that are more nuanced than before. These include the so-called tool of "systemic integration", codified in Art. 31(3) lit. c VCLT, which has faced much discussion recently, as well as the evolutionary interpretation, which began being discussed only recently. Most of these methods, however, are only discussed within single fields of law. Nevertheless, the legal reality is different, more complex: Legal questions cannot be answered by one field of law only. The fields of law are moving closer together, they are not seen as purely distinct and separate anymore.

In this paper, I will analyze the existing methods to solve norm conflicts by referring to the VCLT and the work of the ILC on this topic. But the existing methods do need some modification to adapt to today's legal reality. Cases at the intersection of different fields of law will serve as examples, such as WTO law-IEL, or LOAC-IHRL. A methodology will be developed to (dis)solve tri-polar norm conflicts. The outcome will be applied to a situation on the ground, in a war theatre. For the purposes of this paper, I have chosen two examples: I will first apply the method to the varying definitions of the term "(natural) environment" in IEL, LOAC and IHRL, and second to the relevance of LOAC, IHRL and IEL when it comes to special protected zones in times of armed conflict. These examples demonstrate the interplay and the newly adapted and developed method, managing fields of laws that are moving closer toward each other.