

Measuring the quality of the international judiciary

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Project description:

The last three decades saw the rise of interdisciplinary research into the delivery of quality of justice while maintaining the independence of judges. The starting point is a legal framework of checks and balances that counterbalances two goals: judicial independence and judicial accountability. The case for judicial independence in a separations of power system is clear: they are a check on the other two constitutional powers and protect the constitutional arrangement already in place. They are there to protect citizens from the arbitrary state action of the other two branches. This has traditionally been achieved by assuring a certain status for courts and judges, namely through merit based appointments, lifetime terms, difficult process of removal and favourable salaries.

However, courts are also part of the government and need to be accountable. Traditionally, this was achieved through the requirements that hearings be opened to the public, for judges to give reasoned opinions, allowing for appeals to higher instances, the removal of judges from specific cases if they appear to be biased, as well as working within a tight framework of procedural laws. More recently, there has been a move towards a more managerial approach in studying judicial organizations – studying courts as organizations. With the rise in cases and court backlog, scholars turned to management techniques to study and organize the courts in order to improve the courts' efficiency and later their quality in the delivery of justice. In this approach it is not only judges that are seen as crucial for the delivery of justice but that they are part of a much bigger bureaucratic machinery specifically dedicated to the delivery of justice.

On the other hand, international courts have been growing both in number and in power. Yet, they are still required to operate within the Principal-Agent/ Principal-Trustee framework, where the Principals are the states. The accountability of international courts flows towards states, the very actors that they are supposed to monitor and rule against. This project will explore whether we can modify the concepts, methods and approaches found in national constitutional systems and translate them to international courts in order to strengthen their independence, while also having accountability mechanisms in place.

The candidate will be expected to carry out a comparative research of the concepts, methods and approaches to the independence and accountability of courts, focusing on international courts in particular. The research will be within the fields of international law and international politics. It will be up to the candidate to choose the jurisdictions of focus. The methodology will be desk based research, but the research could also include conducting interviews with various stakeholders of international courts.