

Introducing the Symposium ‘Progress and International Law: A Cursed Relationship?’

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The notion of progress is firmly embedded at the core of international law discourse. “When we speak of something as progressive, we assume that it is a desirable improvement compared to the *status quo ante*” ([Skouteris](#), p. 5). From this perspective, international law carries within itself the seed of optimism and is future-oriented. Under [Kant](#)’s influence (p. 109), international law has been portrayed as a tool of progress for humanity. “The discipline looks forward, confident that we will arrive in the future with history at our side” ([Kennedy](#), p. 347). [Altwicker and Diggelmann](#) identified several specific “techniques for constructing progress narratives” and their underlying “strategic assumptions” (pp. 432-443). On balance, “[i]nvolving or evoking of the notion of progress is one of the most popular rhetorical moves in international law argument” ([Skouteris](#), p. 5).

This seems to be as true today as ever. Indeed, referring to progress or employing “vocabularies of progress” (see [ibid](#)) has been central to many international law analyses in the wake of Russia’s war of aggression against Ukraine. For example, scholars have asked whether the war marks the demise of international legal order as we know it or called for its renewal and reimagination ([here](#), [here](#) or [here](#)). Emblematically, [Hathaway](#) has recently written, “we should not refuse to make progress toward a more just world simply because some of the advocates of justice and accountability are not themselves above reproach”. [Allott](#) has called on international lawyers “to explore every possibility of making a better human future”, among others, through perfecting the rule of law. Others have claimed that the Russia-Ukraine war may in fact spearhead progress in many areas of international law. “The arduous and frustrating process of moving international law forward got jump-started following the Russian invasion” ([Chachko and Linos](#), p. 124). However, [scholars](#) have also raised questions, calling out certain proposals for their exceptionality and selectivity.

Given this prevalence and centrality of the notion of progress to the international law discourse and analysis, this symposium and related [AjV-DGIR](#) conference aim to unpack the unsettled relationship between progress and international law.

Problematising the Assumption of Progress of and within International Law

One way of approaching the relationship between progress and international law is to examine why international law appears to stagnate, be inefficient or even

irrelevant. How can one even refer to progress in the face of a large-scale war of aggression raged by Russia against Ukraine, unaddressed climate change and forgotten refugees? This way of conveying the issue, indeed, takes for granted and presupposes that more international law or more effective or centralised international law is in and of itself “progress”

Another way of conceptualising this relationship is to challenge the assumptions of progress narratives within the field itself. “In certain international law debates, it seems to be ‘a general truth’, or ‘beyond doubt’ that some developments have an intrinsic claim to be considered positive for international law or for society at large” (Skouteris, p. 10). However, crucially, “[t]he language of progress is also a language of authority, to legitimize and de-legitimize” (Skouteris, p. 5). It is, therefore, essential to shed light on and become aware of the fact that invoking progress narratives in a self-evident manner automatically places one’s claims “beyond the test of internal critique, a critique of internal contradictions and gaps” (Skouteris, p. 10). The progress narratives tend to “overlook the normative ambiguity of slippery and value-laden reference points” (Bratspies, p. 457). Koskenniemi claims, “it does not seem possible to believe that international law is automatically or necessarily an instrument of progress” (p. 613).

Against this backdrop, this symposium aims to reflect upon the broad spectrum of issues concerning the operation of the notion of progress in international law discourse. It offers the platform for diverse methodological and theoretical approaches, centring around two objectives. First, the symposium aims to highlight the situations where international law is perceived as lagging behind expectations, identify the factors that determine such a state of affairs, and outline ways forward. Second, it seeks to challenge hard-wired assumptions of progress in certain areas of international law by questioning the techniques of progress narratives – putting a spotlight on what has been left out from these accounts and uncovering their hidden biases. The symposium explores these questions through several categories of inter-relationships as outlined below.

Progress and Time

Undoubtedly, progress and time are intimately intertwined, and therefore, the reflection on their relationship is of categorical importance. This symposium offers two fresh perspectives on the temporal aspects of the notion of progress. In her blogpost, *Visions of Progress and International Law in Nineteenth Century Latin-America: The Experience of the French Intervention in Mexico*, Dr. Tania Ixchel Atilano challenges the conventional formulations of progress narratives built upon the European and North-American visions of the world. She locates the precedents for the “transformative visions of international law” (most significantly, international criminal law) outside Europe and the United States, more specifically in the context of the French Intervention in Mexico (1862-1867). Dr. Eliana Cusato, in her contribution *Progress and Linear Time: How to Rethink International Law to Account for Ecologically Precarious Presents?*, reflects upon temporal assumptions of the notion of progress. Focusing specifically on international environmental law, Dr. Cusato examines the implications of the Western (linear) notion of time and progress on the “current ecological breakdown”.

Progress and Human Rights

Typically, accounts of human rights development have been presented as intrinsically progressive. Two contributions question, nevertheless, these preconceived assumptions, highlighting what has been excluded or silenced in such narratives. Dr. Jens T. Theilen's blogpost *Locating Progress in the European Convention on Human Rights* puts a spotlight on the mainstream narrative of human rights "at home" in Europe, examining the civilisational hierarchies underpinning this trope. Dr. Giulia Raimondo's contribution *Border Dialectics* examines the dialectic development related to migrant protection in international law, defined by, on the one hand, expanded protection and, on the other hand, the restrictive policies and accountability gaps.

Progress in the Anthropocene

Climate change, pollution and biodiversity loss have been caused by humans over the past centuries and now pose unprecedented threats to human and non-human life on earth. These phenomena highlight doubts and limitations of international law's role as the motor of progress in addressing the causes and consequences of environmental deterioration. Dr. Alex Green's contribution entitled *Towards an Impossible Polis: Legal Imagination and State Continuity* calls out an inadequate legal imagination concerning the definition of statehood and state continuity, particularly in view of the sea-level rise due to global warming and proposes new perspectives on these issues inspired by China Miéville's novel *The City & The City*.

Progress and Power

Intuitively, progress requires an element of power, but one can reverse the question: Is progress achieved when the original power-holder is constrained or resisted, ultimately displacing the locus of power? Several contributions relate to a complex and underexplored inter-relationship. Sissy Katsoni, in her blogpost *Towards a Feminist Interpretation of ECHR's Provisions on Access to Abortion*, examines how in cases related to abortion, the ECtHR could implement a feminist interpretation of the ECHR by relying on customary interpretative techniques. Matheus Gobbato Leichtweis's contribution, *Agenda 2030 between the Ideology of Progress and the Reality of Poverty and Exploitation*, challenges the language of progress in the 2030 Agenda for Sustainable Development, ultimately unmasking this language as concealing "a global reality of exploitation, oppression and inequality". Ultimately, Dr. Martin Schwamborn, in his blogpost *Progress and Responsibility: A Healing Relationship – The "Responsibility to and for Progress" in International Law*, develops a novel approach to progress-related responsibility, particularly in scientific and technological development.

More Questions to Dissect

We are very proud to announce that the symposium will close on Saturday, 23 September, at 9.30 a.m., with the live stream of the conference keynote speech by Judge Hilary Charlesworth entitled *Searching for Progress in International Law*. This symposium is, however, only a snapshot of the contributions to be presented

during the two-day [AjV-DGIR](#) conference at the University of Cologne, 22 to 23 September 2023. We would like to express our gratitude to all the contributors to the symposium, sponsors and supporters without whom the conference and this symposium would not have been possible. A special thank you goes to Völkerrechtsblog, particularly to Sissy Katsoni – the editor of the contributions to this symposium.

