




Advancing Global Coordination in Dispute Resolution Institutions

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“At each stage in human history, more complex levels of integration become not only possible, but necessary... The demands of the present moment are pushing existing structures for facilitating deliberations among nations, as well as systems of conflict resolution beyond their capacity...” – A Governance Befitting, BIC

While significant progress has been made toward advancing global order, “...recent events demonstrate that current arrangements are no longer sufficient ... Integration and coordination must... be extended further...” (A Governance Befitting, BIC)

This webinar examines the implications of the emergence of regional centres associated with global institutions in expanding state engagement in global law making. Drawing on findings from her most recent book, [Forming Transnational Dispute Settlement Norms: Soft Law and the Role of UNCITRAL's Regional Centre for Asia and the Pacific](#) (Edward Elgar, 2021), this webinar explores the role of [decentralized law making](#) in the East Asian region and prospects for deepening global cooperation.




Overview

- Background/Objectives of Research Project
 - Methodology
 - Findings
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Abstract

- Expanding inclusivity in the design and development of global conflict resolution norms has become the focus of increased attention. In recent years, a rich body of work examining how ‘legal norms are developed, conveyed and settled transnationally’ has emerged, ‘integrating both bottom-up and top-down analyses’. Calls for expanded representation at both the vertical (between global institutions and individual citizens) and horizontal (between states and international organisations) levels have been advanced with the aim of strengthening legitimacy through more effective participation. In response to such observations, this project examines the role of the UNCITRAL Regional Centre for Asia and the Pacific in coordinating with private and public sector institutions in the development and application of global cross-border dispute settlement guidelines. It seeks to distil positive lessons learned from what may be described as ‘decentralized transnational law engagement’, elucidate regional dynamics, and glean best practices.
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Backdrop of the research project

- UNCITRAL → Responsible for global model law drafting since the mid-1950s.
- Establishment of United Nations Commission on International Trade Law Regional Centre for Asia and the Pacific (UNCITRAL RCAP) in 2012.
- UNCITRAL RCAP
 - Established in Incheon, Korea in Jan 2012 as the first regional centre in Asia-Pacific (and the world).
 - Aims to engage in coordination activities with international and regional organisations and function as a channel of communication between Asia-Pacific countries and UNCITRAL.



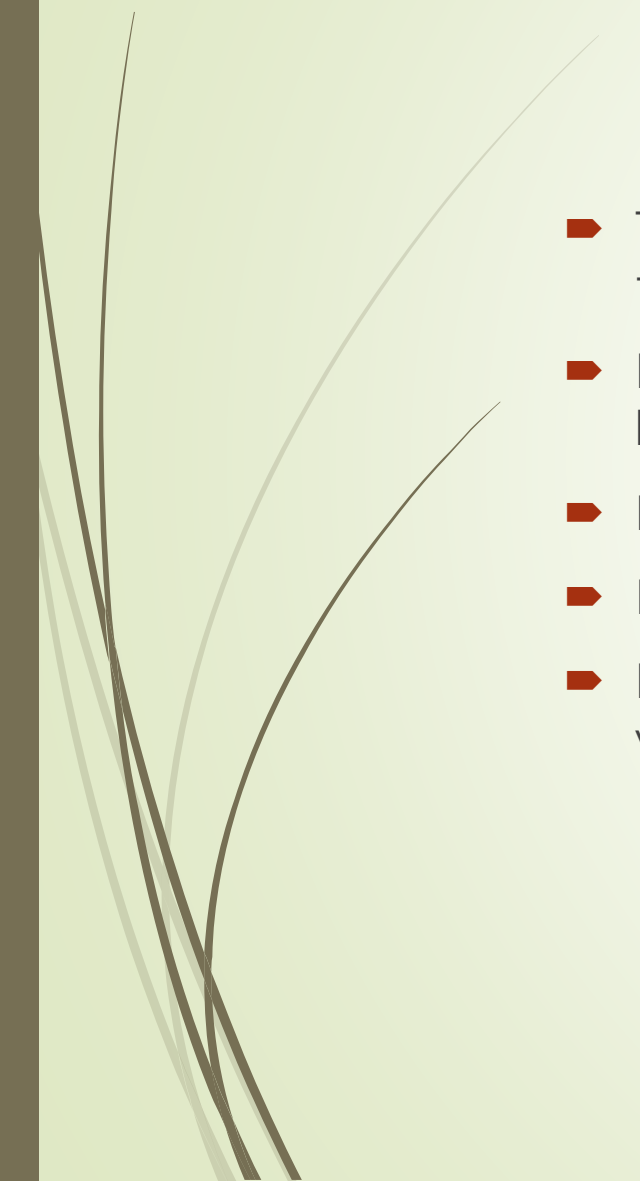
OBJECTIVES

Following the 5th anniversary of UNCITRAL RCAP, the research aims to:

- 1) Analyze the contributions of East Asian members through RCAP in the development and refinement of UNCITRAL dispute settlement instruments.
- 2) Examine whether, and if so how, decentralized engagement in soft law-making through UNCITRAL RCAP helps to overcome the vertical and horizontal representational deficits in the global soft law-making process.




SOFT LAW FORMATION

- ▶ Traditionally, soft law includes aspirational norms, in contrast to hard law treaties.
 - ▶ Formed through the compilation of norms reflecting the current state of the law.
 - ▶ Private non-state actors are pivotal.
 - ▶ Restatements of “best practice” or “codification as innovation”.
 - ▶ Despite their being non-binding, SL exerts influence through its normative weight, creating internal and external pressure for compliance.
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Key Research Focus

- ▶ How engagement via a regional centres can contribute to legitimacy by expanding representation in the soft law formation process
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Methodology



- ▶ Comparing the impact of two forms of engagement in the Asia-Pacific region, traditional centralised and decentralized engagement on soft law-making.
 - ▶ Centralised engagement → formal intermittent participation through Working Group II meetings.
 - ▶ Decentralised engagement → engagement facilitated through regional centres after Jan 2012.





Initial Findings: Contributions of East Asian States in WG II Deliberations

- ▶ Drawing on a survey of participants in UNCITRAL soft law making, and working group participation logs, findings suggest that regional centers such as the UNCITRAL RCAP, have corresponded with:
 - ▶ a 63% increase in the frequency of regional input in WG II meetings,
 - ▶ 6.2% increase in the number of observers from the Asia Pacific
 - ▶ an average increase of 32% in perceived levels of engagement and participation amongst regional stakeholders.



Initial Findings: Contributions of East Asian States in WG II Deliberations

- ▶ Regional legal developments and innovations, highlighted in regional workshops and conferences such as emergency arbitrator procedures and efficiency rules have informed ongoing global innovation in soft law making,
- ▶ increasingly accessible intersession meetings have engaged a growing number of practitioners in conversations about soft law design.
- ▶ The findings provide useful insights for expanding engagement in regions with historically limited representation in global law making including from within Africa, the Middle East and South America.

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- “The diversity that characterizes the human family, far from contradicting its oneness, endows it with richness.”
 - - Universal House of Justice (18 January 2019)



Thank you!

- ▶ Question/discussion
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