REPORT

Ottawa Roundtable on International Law & Double Standards

November 9, 2024 | 9:00 — 15:00
University of Ottawa, Faculty of Law
Human Rights Research and Education Centre (HRREC)
Fauteux Hall | Room FTX570

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INTRODUCTION

On November 9, 2024, the Human Rights Research and Education Centre at the University of Ottawa's Faculty of Law hosted a roundtable discussion on International Law and Double Standards. This event brought together participants from diverse fields of or intersecting with international law for an informal, interdisciplinary exchange on how double standards manifest in legal, political, and institutional contexts. In their opening remarks, the roundtable's organizers—Olabisi D. Akinkugbe, David Hughes, and John Packer—outlined the broader scholarly context of the discussion, emphasizing its role within an ongoing series of events dedicated to critically examining double standards in international law. They highlighted how accusations of double standards frequently emerge in debates over international legal enforcement, State sovereignty, and human rights, often shaping the credibility and legitimacy of international institutions. The roundtable aimed to foster an open and rigorous dialogue on whether double standards are deviations to be corrected or inherent features of the global legal system—or what to do about them. By bringing together scholars, legal practitioners, policymakers, and civil society representatives, the event created a forum for exchanging diverse perspectives on the role of hypocrisy, power asymmetries, and selective legal application in international relations.

Dean Kristen Boon (the Susan & Perry Dellelce Dean of Common Law at the University of Ottawa) and Professor John Packer (Neuberger-Jesin Professor of International Conflict Resolution in the Faculty of Law and Director of the Human Rights Research and Education Centre at the University of Ottawa) welcomed participants to the Faculty of Law, setting the stage for a dynamic and thought-provoking discussion on double standards in international law. In their opening remarks, they underscored the importance of critically engaging with the concept of double standards, not only as a theoretical challenge but also as a practical issue shaping contemporary global governance. They framed the roundtable as a contribution to the future of the multilateral global order, emphasizing that interrogating inconsistencies in the application of international legal norms is essential for strengthening the legitimacy and effectiveness of, notably, multilateral institutions. Throughout the day, these opening insights encouraged participants to reflect on the ways in which double standards influence diplomacy, international adjudication, and the credibility of international legal mechanisms.

The resulting discussions explored three key themes central to understanding the role of double standards in international law. First, participants examined the conceptualization and application of double standards, drawing on observations and insights from diverse fields such as human rights law, investment law, business and human rights, and anti-money laundering regulations. This interdisciplinary approach allowed for a broad and grounded discussion on how hypocrisy and inconsistency manifest across different legal and policy frameworks.

Second, the roundtable focused on the relationship between double standards and international law, addressing foundational questions about the nature of selective enforcement, the legitimacy of legal inconsistencies, and whether double standards are inherently antithetical to fairness or sometimes necessary for stability and strategic cooperation. This discussion interrogated whether pragmatic adaptations in legal application—such as special considerations for weaker States or hegemonic powers—are essential trade-offs within the international legal system or whether they undermine its legitimacy and effectiveness.

The third and final theme centred on exceptionalism (or "exemptionism"), exploring how certain States or actors assert unique status or privileges that justify departures from generally applicable norms. The discussion traced the historical and contemporary use of exceptionalist narratives, particularly in the context of American foreign policy, and considered how other global powers, including the P5 and regional

hegemons, claim similar exemptions. Participants debated the extent to which international law accommodates or challenges exceptionalism, and whether its horizontal nature and lack of a supranational enforcement regime make asymmetries in power and legal application inevitable. Throughout the discussion, speakers critically engaged with the implications of these double standards, questioning whether they should be corrected as deviations or recognized as integral features of international legal practice.

The roundtable brought together 25 participants from across Canada and around the world, representing a diverse range of scholarly and professional expertise in international law and international relations. Attendees included academics, legal practitioners, government officials, and representatives from international organizations and civil society, each bringing unique perspectives shaped by their work in international legal institutions, human rights advocacy, global governance, and diplomacy. This diverse expertise enriched the discussions, allowing for an interdisciplinary and practice-oriented exploration of double standards in international law. All participants partook in their personal capacity and the event was conducted under the Chatham House Rule, ensuring that participants could engage in an open and candid exchange of ideas without individual remarks being attributed to specific speakers. As such, the following report provides a summary of the key themes and insights that emerged from the discussions, rather than a detailed account of individual contributions. This approach allowed for a more frank and exploratory dialogue, fostering deeper engagement with the challenges and implications of double standards in the global legal order.

This event forms part of a larger research initiative, The Double Standards Project, a multi-institutional and interdisciplinary endeavour aimed at deepening academic and policy-oriented engagement with double standards in international law. The project, which is co-led by David Hughes (Trinity College, University of Toronto) and Patryk Labuda (Central European University), is hosting a series of workshops, roundtables, and expert meetings co-organized with institutions such as Harvard Law School's Program on International Law and Armed Conflict and the Geneva Graduate Institute. The first of these workshops took place in July 2024 at the Free University of Berlin, with a large workshop and diplomatic forum planned for May 2025. These gatherings bring together scholars, diplomats, legal advisors, policymakers, and representatives from international organizations and civil society to examine how double standards function within the international system and shape inter-State relations.

The Ottawa roundtable represents a critical step in advancing the conversations fostered by this broader initiative. By bringing together legal scholars and practitioners, it not only contributes to ongoing academic and policy debates but also provides a venue for rigorous, interdisciplinary engagement with one of the most pressing challenges in international law today.

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The roundtable discussion at the University of Ottawa was generously supported by the Human Rights Research and Education Centre project on "Changing Orders: Shaping the Future and Securing Rights in a World in Transformation" (supported by the Alex Trebek Forum for Dialogue). The Organizers would like to sincerely thank Dean Boon and the Human Rights Research and Education Centre at the University of Ottawa for hosting the event and the Alex Trebek Forum for Dialogue for financial support. Finally, we would like to thank Slava Balan *and* Alex Addisalam (PhD in Law candidates at the University of Ottawa) *for their assistance in compiling this report.*

Olabisi D. Akinkugbe, **David Hughes** & **John Packer**
Co-Conveners

OVERVIEW & CONTEXT

Double standards are ubiquitous within the international legal system. Accusations of double standards are regular features of State exchanges and multilateral meetings, shaping debates about everything from maintaining international peace and security in the Security Council, to the fairness of climate change obligations during the drafting of the Paris Agreement, to contests over internet regulation at the International Telecommunications Agency. NGOs that monitor violations of international law regularly report how legal standards and accountability are unevenly realized, writing reports and issuing press releases that document when standards are applied to some but not others. Perceptions of double standards have become a central theme that animates public discourse over the wars, humanitarian catastrophes, and international responses (or non-responses) to ongoing events in Ukraine, Sudan, Myanmar, and Gaza. All this prompted UN Secretary-General Antonio Guterres to recently state that efforts to ensure basic principles of international law require an absence of double standards.

This is because double standards and variants like hypocrisy, whataboutism, or the use of tu quoque arguments can subvert the sense of fairness or legitimacy that international law claims. In various areas of practice, such as international human rights law, international trade and investment law, international tax law, international humanitarian law, and international criminal law, few accusations undermine the respective field's self-professed universalist story as effectually as evidencing double standards. The resulting accusations disrupt the degree of consistency that international legal argument is supposed to advance. International legal practice that employs double standards can provide a means to requisition undeserved reputational benefits. Evidence of double standards impugns the ability of States and other international actors to rely upon reciprocity. And it erodes the validity of the legal ideals and existing norms that those who apply double standards simultaneously promote and undermine.

These observations are not new. When Winston Churchill addressed the American Bar Association in 1957 on the topic of UN paralysis, he warned of a "hit-or-miss system of international justice" and declared that we "cannot be content with an arrangement where a system of international laws applies only to those who are willing to keep them." Writing at the end of the Cold War, Thomas Franck famously observed that as international lawyers are freed from the constraints of defensive ontology, the most important question before them was whether international law could be fair. Thirty years later, despite the prevalence of double standards in international legal practice and the ubiquity of the perceived duplicity, there has been little treatment of how double standards operate in and impact the practice of international law.

Fueled by wars in Ukraine and Gaza, contemporary debates about international law and double standards have now gained new salience. They call into question the legitimacy of international law itself and pose urgent questions about international law's efficacy, purpose(s), and capacity. The resulting debates over double standards and international law go to the very heart of world politics, intersecting with core principles like fairness, justice, and the rule of law. But just as accusations of double standards can serve as a rallying call to promote consistency and equal application of norms, they can also be politicized or weaponized by actors who seek to deflect criticism or avoid accountability for their actions. By pointing to perceived inconsistencies or selective enforcement by other States or international bodies, these actors try to shift the narrative away from their own conduct, framing criticism or formal accountability efforts as hypocritical or biased. In recent years, for example, China has called on the UN Human Rights Council to investigate Canada for crimes against Indigenous children only after Canada's Parliament labelled China's treatment of the Uyghurs as genocide. In response to U.S.-assisted efforts to prosecute him before the International Criminal Court, former Philippine President Rodrigo Duterte colourfully dismissed the prosecution as unjust, highlighting that the U.S. avoids ICC membership, partly to protect figures like former President George W. Bush.

Yet even cynical or politicized invocations of double standards can contain a grain of a larger truth. The rhetorical use of double standards, inherent in whataboutism claims or tu quoque arguments, may formally amount to logical fallacies because they fail to address the initial accusation, they can still undermine the legitimacy of international legal norms by suggesting they are applied unevenly. Such accusations have become powerful tools in global power dynamics, often directly employed by those States that wish to remake the so-called post-War rules-based international order. The recent Russia-China Joint Declaration on Promotion and Principles of International Law, for example, explicitly cites double standards in its attempt to remake the international legal order and both States have identified double standards when providing legal justification for their respective acts of aggression in Ukraine and the South-China Sea. It follows that because both double standards and rhetorical claims exposing these acts impact how international law is practiced and experienced, double standards, and their relationship with international law, need to be further understood.

The Ottawa Roundtable on International Law and Double Standards gathered a group of participants who work across various areas of international law and international relations for informal, interdisciplinary discussions. Through these discussions, the roundtable sought to explore the broader questions raised by ongoing debates about double standards. One panel and two moderated discussions, each detailed below, served to structure these conversations. In so doing, participants examined how the identified double standards affect the practice, perception, and legitimacy of international law, asking whether and how the international legal system can reconcile its universalist principles with the realities of disparate political interests and selective enforcement. This report captures features of these conversations to continue fostering candid dialogue and share insights on the ways double standards impact various fields of international legal practice.

PART 1

Eclecticism and Narrowness: Understandings and Application of Double Standards

Summary: The day's first discussion proceeded as a panel session, where scholars and practitioners from international human rights law, business and human rights, international investment law, and whose work focuses on anti-money laundering regulation engaged in a wide-ranging discussion on double standards and hypocrisy within their respective fields. Designed to be deliberately eclectic, the panel was grounded in both theoretical inquiry and practical experience.

The resulting discussions focused on how double standards and hypocrisy manifest in international legal frameworks, raising foundational questions about how these concepts should be conceptualized and understood. Are double standards a static and clearly defined problem, or do they exist on a spectrum, shaped by context and power dynamics? While discussions on double standards often focus on Global North vs. Global South relations, the panel also examined how these dynamics operate within and among States of the Global South, particularly in contexts where regional power asymmetries and legal inconsistencies play a role.

In addition to the conceptual dimensions, panelists provided concrete examples from their research and professional practice, illustrating how double standards shape legal interpretations, regulatory enforcement, and international accountability mechanisms. The session prompted an engaging exchange on how actors navigate, justify, or challenge legal inconsistencies, setting the stage for broader discussions throughout the day. Following two structured rounds of panellist interventions, the session concluded with an open discussion, allowing for further reflection on the implications and complexities of double standards in international law

Framing Questions: The following questions were used to structure the panellists' interventions and guide the subsequent discussions.

Q1: Double Standards and hypocrisy: how do you envision double standards and hypocrisy in your work? Do you conceptualize the concept as static, narrow, eclectic or on a spectrum? Do you see double standards as applicable simply within the context of the Global South and Global North or does it also play out in Global South-Global South relations?

Q2: What examples can each of you draw on in your work, study, or practice to illustrate and ground our understanding of double standards and hypocrisy?

Roundtable Discussion

The panel discussion provided a wide-ranging and interdisciplinary examination of double standards and hypocrisy in international law, drawing on perspectives from human rights law, investment law, anti-money laundering regulation, environmental governance, and international trade. The conversation explored how and where double standards manifest, as well as their impact on legal legitimacy, global power dynamics, and enforcement asymmetries.

A central theme that emerged was the role of historical and colonial legacies in shaping contemporary double standards, particularly in areas such as conflict responses, financial regulations, environmental obligations, and international trade. Participants noted how selective enforcement of legal norms often reflects underlying power structures, allowing certain States or actors to evade accountability while imposing strict standards on others. For example, the global response to conflicts and humanitarian crises was highlighted as an area where States apply inconsistent principles regarding sovereignty and territorial integrity, depending on strategic interests rather than legal consistency.

In the context of global financial regulation, participants discussed how anti-money laundering (AML) frameworks disproportionately target illicit financial flows from the Global South to the Global North, while providing less scrutiny over financial movements in the opposite direction. Specific examples included the United States, Canada, the United Kingdom, and Australia as key destinations for capital outflows from the Global South, raising questions about whether these financial flows are truly being addressed or merely redirected to jurisdictions with more favourable regulatory environments. The discussion also touched on the role of tax havens and regulatory asymmetries, questioning whether Canada and other States are genuinely committed to financial transparency given practices such as real estate "snow-washing" and weak corporate ownership disclosure laws. Dubai was cited as an example of a financial hub that, despite its significant role in global capital flows, receives relatively little scrutiny in debates about double standards.

The conversation also expanded beyond the traditional Global North–Global South dichotomy, acknowledging that double standards exist within the Global South itself, at regional, sub-regional, and domestic levels. Examples included policy inconsistencies within the African Union, disparities among ECOWAS member States, and governance asymmetries in Kenya between central and local governments. Participants noted that such internal contradictions challenge the idea that double standards are purely a function of post-colonial global divisions, instead pointing to wider structural and institutional factors that shape legal inconsistencies.

Participants also debated the broader implications of double standards on international legal legitimacy. While some argued that double standards undermine trust in international law, others suggested that selective enforcement is sometimes necessary for maintaining stability. The discussion considered whether normalized double standards create new legal norms, raising the question: at what point does inconsistency

cease to be an exception and instead define the system itself? Some participants drew analogies to biological systems, suggesting that just as an accumulation of dead cells can cause the death of an organism, unchecked legal hypocrisy may ultimately erode the legitimacy of international law as a whole.

Environmental governance was highlighted as a particularly stark example of double standards, where the Global North—having benefited from centuries of industrialization and carbon emissions—now demands rapid decarbonization from developing countries without providing sufficient financial or technological support. Examples included Nigeria's experience with coal and oil bans, where international restrictions exacerbated poverty and economic vulnerability. The discussion also pointed to the hypocrisy of crisis-driven derogations, noting how the Global North returned to coal during the energy crisis triggered by Russia's invasion of Ukraine, while continuing to impose strict emissions regulations on the Global South. Similarly, participants discussed waste disposal practices, where the EU exports toxic plastic waste to African States under the rationale that such waste is too harmful for European environments but somehow acceptable elsewhere.

The discussion further explored how double standards reinforce authoritarian legitimacy. Some participants argued that Western inconsistencies in applying human rights and legal norms provide a rhetorical tool for authoritarian regimes to dismiss international criticism as hypocritical and politically motivated. This dynamic was exemplified by the UK's de-occupation of the Chagos Islands, where the failure to uphold decolonization principles for decades damaged British credibility within African diplomatic circles and contributed to a lack of support for the UK's bid for a seat at the ICJ.

In the realm of international investment law, panellists highlighted that investment agreements systematically favour corporate interests over affected communities, with strong legal protections for investors but few obligations regarding human rights or social responsibility. The lack of reciprocity in the system was seen as a clear example of legal hypocrisy, as powerful States can reject international arbitration rulings, while weaker States have little choice but to comply. Participants pointed to Canada's dominant role in the global mining sector, where a large portion of international mining companies are Canadian-registered but operate in jurisdictions with weak regulatory protections. Concerns were also raised about forum shopping, where multinational corporations strategically select jurisdictions that offer the most favourable legal outcomes, further reinforcing imbalances in international economic governance.

The discussion then turned to the selective application of international law at the domestic level, with participants raising concerns about how legal norms are invoked inconsistently to serve political objectives. Examples included Canada and other States pursuing legal action against the Taliban at the ICJ without consulting Afghan women, raising questions about whose interests are represented in international legal proceedings. Similar concerns were raised regarding gender-based violence cases in international criminal law, where crimes involving sexual violence are often subject to higher evidentiary thresholds than other war crimes, leading to systematic under-prosecution.

Another domain where double standards were seen to be pervasive was Outer Space Law, where Western corporations, such as those led by Elon Musk, openly discuss space mineral extraction despite the 1966 Outer Space Treaty's prohibition on national appropriation of celestial bodies. Participants noted that such developments reflect a broader pattern of powerful States and private actors selectively interpreting international law to serve their interests.

Throughout the session, participants grappled with whether some degree of legal hypocrisy is inevitable or whether efforts should be made to reduce inconsistencies. Some argued that even performative or rhetorical commitments to legal norms serve a purpose, as hypocrisy at least requires States to acknowledge international law, rather than disregarding it entirely. Others warned that if double standards become too pervasive, they risk undermining legal principles to the point where they cease to function effectively.

Finally, the panel explored whether double standards are driven by material interests that remain insufficiently interrogated, particularly in Western disengagement from the WTO once it began ruling against them, and in domestic policies that reinforce economic disparities. The session concluded with reflections on whether legal systems should prioritize pragmatic enforcement over idealistic consistency, and how international law can better balance power dynamics while maintaining its legitimacy.

PART 2

Framing the Relationship Between Double Standards and International Law

Summary: The next session of the roundtable proceeded in an open discussion format, where a moderator introduced the topic before participants engaged in a broad and dynamic exchange on double standards in international law. Acknowledging that accusations of inconsistent legal applications frequently emerge in multilateral institutions, State practice, and global governance, the discussion sought to establish a nuanced framework for understanding how double standards operate within the international legal system.

The conversation began by examining the fundamental nature of double standards, questioning how to define and differentiate them from pragmatic adaptations that may be necessary in an unequal and multipolar world. Participants debated whether selective enforcement of legal norms is inherently at odds with the principles of fairness and equity that international law aspires to uphold, or whether such inconsistencies are sometimes justified—or even indispensable—for maintaining stability, cooperation, and peacebuilding efforts.

Building on these conceptual inquiries, the discussion explored whether international law, as it currently functions, allows room for the selective application of norms without eroding its core principles. Participants considered whether powerful States shape legal interpretations to their advantage, how smaller States navigate legal asymmetries, and the broader impact of double standards on the legitimacy and authority of international legal institutions.

To guide the discussion, a series of structured questions were introduced, prompting reflection on the definitional boundaries of double standards, their potential necessity in global governance, their effect on the credibility of international law, and their relationship with power asymmetries. These questions framed the conversation and set the stage for further engagement with how double standards should be addressed —whether as deviations to be corrected or as inevitable features of the international legal order.

Framing Questions: The following questions were used to structure the panelists' interventions and guide the subsequent discussions.

Q1: Defining Double Standards: What criteria should be used to determine if a practice or decision in international law constitutes a "double standard"? Are there established frameworks or precedents in international law that help differentiate between pragmatic adaptations and outright inconsistencies?

Q2: Necessity vs. Principle: In what instances, if any, can double standards be considered necessary for achieving broader goals in international law (e.g., maintaining peace, ensuring regional stability, or promoting development)? How do we balance these pragmatic concerns with the principles of fairness and equality that international law aspires to uphold?

Q3: Impact on Legitimacy: How do double standards impact the perceived legitimacy and authority of international legal institutions? Are there cases where selective applications of norms might strengthen the international legal system, or does this approach inevitably undermine its foundational principles?

Q4: Global Power Dynamics and Selective Application: To what extent do double standards in international law reflect the unequal power dynamics between States? How can smaller or less powerful States navigate this landscape, and is it possible to mitigate the influence of power asymmetries on the enforcement and application of international norms?

Roundtable Discussion

The second session of the roundtable invited participants to engage in a broad and dynamic exchange on the structural, legal, and political dimensions of double standards in international law. The conversation explored how power asymmetries, selective enforcement, and competing legal interpretations contribute to inconsistencies in how international law is applied. While the legal language of international law often appears universal and impartial, participants critically examined how hegemonic power structures shape its interpretation, enforcement, and legitimacy, leading to systemic and structural double standards in global governance.

One of the central themes of the discussion was the selective enforcement of international criminal law, particularly in relation to gender-based violence. Participants noted that proving crimes of sexual and gender-based violence before international legal bodies often require a higher evidentiary standard than other international crimes, raising concerns that such inconsistencies amount to a double standard that disproportionately undermines the rights of women and girls worldwide. The discussion also highlighted asymmetrical State efforts to hold international actors accountable, with comparisons drawn between South Africa's attempt to bring Israel before the ICJ and initiatives by Canada and Australia to hold the Taliban accountable for gender-based crimes. Some participants questioned whether such accountability measures are genuine legal efforts or merely performative, raising broader concerns about the role of rhetoric in international law and whether performative legal actions still serve a normative function.

The discussion also turned to the evolving relationship between the United States and international legal institutions. Some participants cited the U.S. Government's recent decision to share evidence with international prosecutors as an example of legal hypocrisy, given its longstanding opposition to the International Criminal Court (ICC) and its refusal to subject its own officials to ICC jurisdiction. This shift prompted broader reflection on whether isolated policy changes—such as increased cooperation with international courts—can meaningfully address structural double standards or whether they simply mask a deeper systemic imbalance in how international legal norms are upheld and enforced.

Participants further examined how double standards in international law are not merely a product of specific legal decisions but are embedded within the architecture of global governance itself. There was significant discussion on the role of international institutions such as the United Nations, which, despite being a presupposed global legal entity, has often been shaped by the interests of powerful States such as the United States. This has contributed to credibility concerns and systemic structural problems, particularly regarding the recognition and enforcement of fundamental international legal principles such as sovereignty, territorial integrity, and universal human rights. Participants raised questions about whether international law, in its current form, is capable of addressing these power imbalances or whether its application will always reflect the interests of dominant States.

Beyond these institutional concerns, participants explored the broader implications of selective legal interpretation in international law. It was noted that many international legal arguments—even those used to justify acts of aggression—are still framed within the language of international law itself. For example, Russia's invasion of Ukraine was justified using legal arguments rooted in international law, raising questions about who defines legal legitimacy and how norms can be manipulated to justify State action. Some participants suggested that the lack of an overarching human rights-based body to regulate the

interpretation and application of international law has allowed legal principles to be selectively applied in ways that serve the interests of more powerful States. Others emphasized that international law was, from its inception, meant to be rooted in universal human rights, yet it has consistently failed to fully uphold these principles.

The discussion also examined whether certain legal double standards are ever justifiable or even desirable. Some participants pointed to the European Court of Human Rights' concept of the "margin of appreciation", which allows for context-specific variations in legal interpretations, as an example of how legal flexibility can sometimes strengthen rather than undermine international law. Similarly, the concept of positive discrimination was raised as a possible counterpoint to the idea that all double standards are inherently negative, prompting discussion on whether certain asymmetries in legal applications can serve legitimate purposes, such as ensuring fairer outcomes for historically marginalized groups.

Another issue discussed was the role of treaty reservations in contributing to legal double standards. Participants noted that powerful States have historically used reservations to exempt themselves from certain treaty obligations, raising questions about whether allowing such flexibility ultimately strengthens the international legal system by encouraging more States to participate or weakens it by permitting selective compliance. The inequality of power within the UN Security Council, where permanent members hold veto power while other States do not, was also cited as a fundamental example of entrenched double standards within international law.

The conversation further explored how double standards manifest in international economic law and global bureaucracies. Participants noted that international economic institutions, including the WTO and the International Centre for Settlement of Investment Disputes (ICSID), often serve the interests of wealthier States, allowing them to avoid legal scrutiny while imposing strict conditions on less powerful States. In the context of foreign investment law, participants highlighted how investment agreements tend to prioritize the rights of multinational corporations over local communities, with powerful States resisting legal accountability while simultaneously using these mechanisms to hold Global South States to stricter standards. Examples of forum shopping, where corporations strategically select jurisdictions with favourable legal outcomes, were also cited as an instance of double standards embedded within the global economic order.

The discussion concluded with reflections on the long-term consequences of legal double standards. Some participants raised concerns that normalizing selective legal applications could ultimately undermine international law as a whole, questioning whether double standards, if left unchecked, could lead to a fundamental collapse of the rules-based order. Others countered that some level of legal inconsistency is inevitable in a multipolar world and that even performative legal commitments can still reinforce international norms. The conversation left open the question of whether international law should seek to eliminate all double standards or whether a more pragmatic approach is necessary to navigate the complexities of global governance.

Ultimately, the session reinforced that double standards are not merely deviations from international law but, in many ways, integral to its operation. Whether these inconsistencies erode or sustain international legal legitimacy remains an open question, one that continues to shape contemporary debates on fairness, power, and the future of global legal order.

PART 3

On "Exceptionalism"

Summary: The third and final session of the roundtable proceeded as an open discussion, where the moderator introduced the topic before participants engaged in a wide-ranging exchange on exceptionalism and its role in shaping double standards in international law. The discussion focused on how certain actors assert unique characteristics or status to justify exemptions from generally applicable legal norms, particularly when invoking claims of special responsibility, historical legacy, or strategic necessity.

A key theme of the discussion was the way exceptionalism has been embedded in global governance, with participants reflecting on how powerful States, particularly the United States, have positioned themselves as norm-generators while simultaneously avoiding being bound by those same norms. The conversation explored how this dynamic, often framed through American foreign policy narratives of moral leadership and global stewardship, has shaped broader expectations around international legal compliance and enforcement asymmetries. However, participants also considered whether this pattern is unique to the United States or whether other powerful States and institutions—such as the P5 of the UN Security Council, regional hegemons, and emerging global powers—similarly exercise selective adherence to international legal principles.

The discussion then turned to the legal and structural dimensions of exceptionalism, questioning whether international law inherently accommodates, or even requires, some degree of legal exemption for indispensable global actors. Given that international law lacks a supranational enforcement mechanism, participants debated whether certain States and institutions are effectively permitted greater flexibility in their legal obligations due to their geopolitical influence and economic power. Some questioned whether this pragmatic reality is necessary for the functioning of international law, while others argued that it fundamentally undermines the credibility of the system.

Further, participants examined whether exceptionalism is merely a form of disguised non-compliance, raising concerns about whether the concept provides a justification for legal violations rather than a legitimate space for non-conformity within the bounds of international law. The discussion also addressed whether exceptionalism, if left unchecked, could erode the fundamental principles of international law, leading to a fragmented system where legal obligations are selectively enforced based on power rather than principle.

To structure the conversation, participants engaged with a series of framing questions, considering whether exceptionalism can be reconciled with international law, whether it is inescapable given the realities of global power structures, and if alternatives exist to mitigate its impact. The discussion concluded with reflections on whether regional hegemons or power blocs might serve as alternative stabilizing forces in a system that implicitly accommodates legal exemptions for dominant States, and whether any limits could—or should—be imposed on such practices.

Framing Questions: The following questions were used to structure the panelists' interventions and guide the subsequent discussions.

Q1: Understanding "Exceptionalism" in International Law: Is there an implicit (if not explicit) meaning of "exceptionalism" in International Law? Is there a broader principle of exceptionalism (e.g. of "exemptionism")? If so, what would be its characteristics and justifications?

Q2: "Exceptionalism" as Double-speak for Violations: Between compliance and non-compliance, is there a legitimate and useful space for non-conformity that is distinct from violations/breaches of International Law?

Q3: "Exceptionalism's" Inescapabilty: Does the efficacity of International Law depend in part on some degree of exception/exemption for indispensable powers? Does International Law as an order require it?

Q4: If "Exceptionalism" is Odious for International Law, What Are Its Real Alternatives?: Could there be parallel regimes (e.g. of regional hegemons) – each enjoying degrees of exception/exemption in exchange for guarantees of order? Would there be some limits to such exceptions/exemptions?

Roundtable Discussion

The final session of the roundtable engaged participants in a wide-ranging discussion on exceptionalism and its role in shaping double standards in international law. The conversation explored how certain States and actors assert unique characteristics or status to justify exemptions from generally applicable legal norms, often invoking historical narratives, strategic necessity, or moral responsibility as the basis for such claims. Participants examined whether exceptionalism is an inherent feature of global governance or a direct challenge to the legitimacy of international law.

A key focus of the discussion was American exceptionalism and its influence on the development and enforcement of international legal norms. Participants traced the historical evolution of the concept, beginning with its origins in the early 20th century as an ideological counterpoint to universalist communist doctrines and its later reinvention during the Reagan era as a claim of moral and strategic superiority. The discussion considered how these narratives—framing the United States as a "shining city on a hill" and a global protector of democracy and human rights—have shaped the country's selective engagement with international legal institutions. Examples included the United States' position on the International Criminal Court (ICC) and the International Labour Organization (ILO), where it maintains membership but has refused to ratify key conventions, reinforcing perceptions of legal double standards.

Beyond the U.S. context, participants debated whether other States and institutions—such as the P5 members of the UN Security Council, regional hegemons, and emerging global powers—engage in similar practices of selective legal adherence. Some argued that powerful States are necessary guarantors of the international legal order, while others contended that their inconsistent compliance with international law weakens the credibility of the legal system. The conversation also considered whether certain legal norms carry greater weight than others, questioning if the hierarchy of norms within international law creates an inevitable tension between principle and practice.

The discussion extended to exceptionalism in global economic governance, particularly within the World Trade Organization (WTO). Participants reflected on how decision-making within the WTO has historically favoured dominant economic powers, allowing them to shape trade rules while avoiding accountability when rulings go against their interests. The United States' diminishing engagement with the WTO was cited as an example of how States leverage institutional participation strategically rather than as a commitment to a universal legal order. This raised broader questions about whether exceptionalism in trade law is a reflection of structural inequalities within global governance or a necessary tool for economic stability.

Participants also examined the implications of exceptionalism on gender rights and human rights implementation and enforcement. The discussion highlighted how women often bear the greatest consequences of legal inconsistencies, particularly in areas such as gender-based violence in conflict zones. It was noted that international legal mechanisms frequently fail to integrate gender perspectives adequately, and that women's rights are often treated as secondary concerns within broader legal and policy discussions.

Participants debated whether the exclusion of gender perspectives from international law reflects a broader trend of exceptionalism, where certain rights are prioritized while others are overlooked.

The conversation also turned to pedagogical concerns, with participants reflecting on how international law is taught in Canadian law schools. Many noted that international law is often framed as "soft law" or an aspirational field, rather than as a binding and enforceable legal framework. Participants expressed concern that the marginalization of international law in legal education limits its role in shaping future legal practitioners and policymakers, further reinforcing the perception that it is optional rather than fundamental and compelling. The lack of emphasis on International Humanitarian Law (IHL) and International Criminal Law in Canadian law schools was cited as a symptom of a broader neglect of international legal scholarship and training.

The session concluded with reflections on whether the current structure of international law is sustainable in the face of growing exceptionalist claims. Some participants suggested that a move towards a supranational legal order could help mitigate the impact of double standards, particularly in areas such as global health governance, climate change, and digital regulation. Others questioned whether a more decentralized system, with regional legal frameworks playing a greater role, might offer a pragmatic alternative to the current international order.

Ultimately, the discussion reinforced that exceptionalism is deeply embedded in the practice of international law, raising fundamental questions about the legitimacy, consistency, and future direction of the international legal system. Participants highlighted the need for continued dialogue on how double standards shape global governance and whether reforms are possible to address these entrenched asymmetries.

CONCLUSION

Reflections and Future Research Directions

The Ottawa Roundtable on International Law and Double Standards brought together scholars, practitioners, and policymakers to critically examine how double standards shape international legal practice, legitimacy, and enforcement. While the discussions spanned diverse areas—from human rights law and international trade to global governance and exceptionalism—several common themes emerged. Chief among these was the recognition that double standards are not merely anomalies or deviations from international law, but rather integral to its operation, reflecting broader power asymmetries, historical legacies, and strategic interests. Whether double standards erode or sustain international law remains an open question, and one that requires further scrutiny.

One of the key takeaways from the roundtable was that double standards do not manifest in a uniform or singular way, but rather across multiple dimensions. Participants highlighted how legal inconsistencies are structured through geopolitical influence, such that the powerful often set legal norms while remaining selectively exempt from them. At the same time, there was significant discussion about whether legal pragmatism sometimes necessitates selective application, particularly when certain States or institutions play indispensable roles in maintaining global order. These competing perspectives raised critical questions about the limits of legal universality and whether international law is capable of accommodating political realities without sacrificing legitimacy.

The roundtable also underscored the need for greater critical engagement with the role of legal education in shaping perceptions of international law. Participants noted that international law is often marginalized in legal curricula, treated as soft law or aspirational, rather than as a binding and enforceable legal framework. This gap in legal training contributes to the broader perception that international law is flexible, malleable, or optional, reinforcing existing double standards in its application. Future research could explore how legal education can better integrate international law, particularly in jurisdictions where its role is downplayed or dismissed as secondary to domestic law.

Beyond these conceptual reflections, the roundtable also identified several pressing research questions that warrant further exploration:

1. The Structural Dimensions of Double Standards

- How do legal frameworks enable and reinforce hierarchies of norms that permit selective enforcement?
- Are there areas where legal inconsistencies serve a functional purpose in maintaining global stability?
- What are the implications of supranational legal structures, such as regional courts, in addressing selective enforcement?

2. Exceptionalism and Global Governance

- Is exceptionalism in international law always illegitimate, or are there instances where it strengthens legal norms?
- Can a balance be struck between pragmatic legal adaptations and universal legal obligations?
- How do exceptionalist claims by global powers shape the perception and legitimacy of international institutions?

3. Gender and International Law

- Why do gender-based crimes in international criminal law continue to face higher evidentiary thresholds than other crimes?
- How do double standards in legal interpretation disproportionately impact women and marginalized communities?
- What role can feminist legal perspectives play in challenging legal exceptionalism?

4. The Future of International Law in a Multipolar World

- How do emerging regional power blocs and hegemons influence the selective application of international law?
- Does the erosion of the rules-based international order signal the need for alternative global legal frameworks?
- What lessons can be drawn from historical shifts in legal paradigms, and are we entering a post-Westphalian legal order?

5. Legal Education and the Future of International Law

- How does the way international law is taught in universities affect how it is perceived and applied?
- Should legal education emphasize the enforceability of international law, rather than its aspirational dimensions?
- How can legal academia challenge dominant narratives of legal exceptionalism and selective enforcement?

The discussions at the Ottawa Roundtable made clear that double standards in international law will remain a defining issue in global governance. Whether framed as a pragmatic necessity, legal inconsistency, or strategic advantage, the selective application of legal norms shapes how international law is practised, enforced, and understood. Addressing these challenges will require further interdisciplinary collaboration, policy engagement, and scholarly inquiry, particularly as geopolitical shifts and institutional crises continue to test the resilience of international legal norms.

Moving forward, The Double Standards Project will continue to explore these themes through future workshops, expert meetings, and research publications. The Project's next phase will include a large workshop and diplomatic forum in May 2025, where scholars and policymakers will further engage with the questions and challenges raised in this roundtable. By continuing to foster rigorous, open dialogue, the Project aims to contribute to a deeper understanding of how double standards operate within the international legal system—and what can, or should, be done about them.

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