



**Research Objectives**

Standards of Public International Law for Governance  
*(Human Rights, Good Governance, Right to Self-Determination, Gender-Dimension of these Standards)*

Modification of these Standards in Areas of Limited Statehood  
*(State-Building, Development Cooperation)*

Actors Bound by these Standards  
*(International Governmental and Non-Governmental Organizations, Armed Opposition Groups, Transnational Corporations)*

Implementation and Enforcement Mechanisms of these Standards  
*(Capacity Building, Incentives, Sanctions)*

**Partner Institutions of the Research Center (SFB) 700**

Host University:  
Freie Universität Berlin



University of Potsdam



Social Science Research Center Berlin (WZB)



German Institute for International and Security Affairs (SWP)



Hertie School of Governance



European University Institute Florence (EUI)



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**Contact**

Research Project A4  
Standards of Public International Law for Governance in Weak and Failing States

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## Research Framework of Research Center (SFB) 700

The governance problematique constitutes a central research focus in contemporary social sciences. Yet the debate remains centered on an “ideal type” of the modern nation-state – with full sovereignty and a legitimate monopoly over the use of force. From a global as well as a historical perspective, however, the Western modern nation-state is an exception rather than the rule. Outside the developed world, we find areas of “limited statehood”, from developing and transition countries to failing and failed states in today’s conflict zones and – historically – in colonial societies. Our Research Center focuses on these areas of limited statehood which lack the capacity to implement and enforce central decisions or even lack the monopoly over the means of violence.

### Central Questions of Research Project A4

1. Are there norms of public international law that regulate governance and what is their content?
2. Which actors are bound by these standards of public international law?
3. How are these standards implemented and are they modified in situations of limited statehood?
4. Does public international law have an impact on the exercise of governance in areas of limited statehood?
5. Does public international law contribute to the legitimacy of governance in areas of limited statehood?

## Constitutionalization of the International Legal Order

Traditionally, public international law focused on the legal relations between sovereign states. However, since the end of World War II, significant developments, such as the codification of universal human rights, the emergence of international criminal law, or the acceptance of fundamental norms constituting *jus cogens*, gave rise to a value-based approach to public international law. In this perspective, the international society is conceived of as a community with common values, and the international legal order is characterized by an emergent “constitutionalization.”

### Standards of Public International Law for Intra-State Situations

Against this background, the project attempts to identify standards of public international law for legitimate governance in weak and failing states. The underlying presumption is that international law increasingly regulates the way state power is exercised internally, as common values permeate not only inter-state relations, but also intra-state situations, i.e. the relationship between the state and non-state actors, and relations between the latter. In particular, the project analyzes the practice of various international organizations as well as state practice in order to examine:

- the institutional dimensions of human rights law;
- the contents and binding elements of good governance;
- the right of self-determination and its implications for a possible right to democratic governance and a possible obligation of setting up federal structures;
- and the gender dimension of these standards.

## Non-State Actors in International Law

The second aspect of the project concerns the addressees of the standards identified. More specifically, it is investigated how transnational corporations, ethnic minorities, national liberation movements and other non-state parties to a conflict could be bound by public international law standards for governance. Finally, the question arises whether these standards are modified with respect to areas of limited statehood.

For that purpose, the project examines international state building operations, development cooperation, and the work of regional international organizations. As case studies for the implementation of these standards, the cooperation of regional international organizations and non-governmental organizations in Mexico (region of Chiapas) and the Georgian Republic will be studied.

### Research Approach

The research approach of the project is based on the traditional sources of public international law as codified in Article 38 of the Statute of the International Court of Justice. One focus is therefore to search for international custom, as evidence of a general practice accepted as law. While official documents of the United Nations’ organs and regional international organizations do not as such constitute binding rules of international law they may serve as a basis of emerging obligations. Apart from customary rules the research attaches particular importance to the general principles of public international law. This is based on the observation that this source of law has played a minor role in the legal discourse so far but is of increasing importance in the process of constitutionalization.