

# **Nested and Overlapping Regimes**

Princeton University

February 24, 2005

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## **Instructions for Memo Writers**

The purpose of this conference is to reflect on how the complex, layered nature of international regimes --with overlapping and at times conflicting international norms, commitments or decision rules-- is itself influencing international politics.

In some cases, conflicts between agreements and the politics they engender may be accidental or unintended. In other cases, the overlapping of international commitments is an intentional strategy. States may create an overlapping institution because changing existing agreements would involve insurmountable challenges, or because a sub-group of states wishes to go in a direction the larger group will not consent to go. Sometimes, sub-groups of states intentionally create a conflict among agreements to try to weaken the normative authority of the more encompassing agreement, or to make walking away from the more encompassing agreement, should they want to, less costly. And sometimes a concern that one agreement will be a stepping stone to somewhere else, or create a problem for a different agreement, itself becomes a barrier to building a political consensus around a common solution for a common problem.

We think that most would agree that the existence of multiple overlapping agreements creates opportunities but also greater complexity in the international playing field. An actor trying to legitimize its policy has a myriad of international texts it can draw on for support. Sometimes actors can forum shop to find venues that are more favorable to their policy objective, or actually play forums off against each other. Sometimes two actors in political contestation are able to find disparate sources of international authority, so that individually determinate rules themselves become collectively indeterminate. These are but a few of illustrations of how the nested and overlapping nature of international agreements plays itself out.

When we tried to think more systematically about how the nested and overlapping nature of international commitments generates its own variety of politics, we observed that there was not a lot of theory to draw on. Scholars have addressed aspects of this question, often in systematic detail, but to get traction on the larger question of how nesting “matters,” they reduce the issue to a single question, case or dimension. Adding up the sum of the disparate parts was impossible for us to do. We also observed that nested or overlapping politics appeared in nearly every story of multilateralism—as a sentence or a paragraph—but in most cases with little systematic reflection on how nested politics matters for the case.

Thus we thought that the time was ripe to try to create a catalogue of insights of how nested politics may matter. Nested politics may play out differently at different

stages of the political process—negotiation of agreements, implementation of agreements, dispute resolution within agreements, and in iterations where new issues and challenges arise within existing institutions. **As an exercise to start building a catalogue of insights, we ask you to read the posted literature on nested politics and to try to find relevance to your work in it.**

This charge is admittedly a “fishing expedition” to think about how nested politics may matter, and thus an inductive approach to building theory. Spending a day with knowledgeable scholars collectively reflecting on the larger issue will, we hope, spur scholarship on this question that seems important yet understudied. We also hope that it will yield paths forward that are systematic and more complete, so as to help scholars think holistically about the politics generated by the nested and overlapping of international commitments.

*We leave the organization of the memo to you, but ask you to try to address the following questions, while being specific to an area of multilateralism that you know well. We are asking for a reflective memo, rather than a researched paper. If you know of an article that reflects on a single aspect of the issue of nested politics, we are happy to post it on the conference website as part of the scholarly collection.*

1. **In the area you know well, are there multiple questions raised by the nesting/overlapping of international commitments?** For analytical traction, most authors will reduce the aspect of nested/overlapping politics to a single dimension. Releasing yourself from this constraint, can you identify multiple points at which nested politics may be at play—perhaps in the crafting of the text of agreements, in the institutional fora chosen for the agreement, in compliance politics once the agreement exists, in opportunism used by different actors in navigating the complex legal terrain, or in forward looking strategies aimed at remediation of “problems” or lacunae in existing rules?
2. **Which insights from the literature seem to be applicable to the area of international organizations that you know best?** Which aspects of the literature we have given you provide analytical leverage to understand an outcome or behavior that would otherwise be puzzling? Rather than talk in the abstract, can you be empirically concrete in how the insights seem to be at play.
3. **Can you make some counterfactual conjectures that allow you to understand how the nesting/overlapping of international commitments matters in your case?** If some of the layers of the institutions were gone, so that you were in a world of one take it or leave it agreement, would politics in your issue area be different?
4. **Are there “portable” insights from your case that might apply elsewhere?** Are any of the ways in which nested governance seems to be causally important potentially generalizable to other contexts? What types of generalizable conjectures might you make based on the case that you know well?