

Chapter 14

Lessons from the International Governance of Biotechnology

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ABSTRACT

This chapter covers the development and operation of norms within the international system and more specifically within the international governance of biotechnology. Through the use of case studies it highlights several key points which should be considered when analysing the role, application and implementation of norms in other governance areas.

INTRODUCTION

This chapter examines the governance of biotechnology at the international level, looking at how norms have been incorporated in its development and how they are being used in emerging governance efforts. First, some particularities of governance at the international level are outlined to provide background and contextual information for understanding the governance of biotechnology. Case studies will be used to highlight particularly pertinent issues and processes in relation to ethical governance.

GOVERNANCE AT THE INTERNATIONAL LEVEL

There are differences between international, regional and national governance which may mean

that some of the lessons from the international governance of biotechnology will not apply directly at these other levels. This chapter begins by outlining some key points about the international system and how governance operates within it, to set the context.

System Characteristics

The international system is characterised as anarchical because there is no supranational authority to govern it. The most important actors in international relations are states. Other actors such as international organisations, non-governmental organisations and multinational corporations are having increasing influence on international processes, but states remain dominant. They create and are the subjects of international law and are still the key decision-makers in international governance.

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In the absence of supranational authority, the international system is shaped partly by norms and rules, but power relations play a significant role and the pursuit of power (particularly in military and economic terms) is still a core part of conceptions of national interest. Powerful states dominate the direction and content of international governance. For example, in law-making they have more influence on the creation of rules; can persuade or pressure other states to comply (or not) with rules; and can afford to ignore certain rules.

Powerful states can, based on their superior resources, dominate the processes of international law-making. They have the resources to be able to enforce the laws that they support and bear the costs of attempted enforcement action by others. (Rhodes, 2010, p. 55)

International treaties are unlikely to be agreed without the support of the main powers. Not surprisingly then, the rules and governance arrangements that exist tend to favour the interests of dominant states.

A Place for Ethics?

A major strand of international relations theory – realism – was dominant for most of the second half of the twentieth century and still retains some policy influence today. It holds that there is no place for moral considerations in international relations. Its arguments in this regard follow the lines of:

- Human nature as self-interested and power-hungry scales up to the international level.
- States, motivated solely by self-interest, are the only significant actors in the international system.
- States' interests are their own survival and the survival of the system.
- In the anarchic international system, the balance of power is the ordering factor.

- States' interests can therefore only be achieved through pursuit of power (for their own survival) and consideration of the balance of power (for survival of the system).
- Appropriate foreign policy will be determined solely by considerations of power and power relations.
- The inclusion of moral considerations in foreign policy making distracts from a focus on power and will lead to flawed decision-making, threatening state survival and the stability of the system.

Realism developed as a response to (what it labelled as) 'idealist' international theory, which held that a more peaceful and just international society could be created through the establishment of international institutions, norms and rules. This thinking prompted the formation of the League of Nations in 1919 and can be seen in the wording of its charter – the *Covenant of the League of Nations* – which mandated its member states to:

Achieve international peace and security by the acceptance of obligations not to resort to war, by the prescription of open, just and honourable relations between nations, by the firm establishment of the understandings of international law as the actual rule of conduct among Governments, and by the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organised peoples with one another.

Realists blamed such thinking for the outbreak of the Second World War. The expectation that states, based on moral considerations such as justice and the prevention of human suffering, would cooperate to avoid war, had led to a failure to consider power dynamics and to correct a power imbalance. As argued by Hans Morgenthau, a leading realist theorist:

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