Background to the theme of the workshop

Following the Global Legal Studies conference on the Role of Law in Developing and Transitional Countries last year there was a discussion about the idea of legal innovations. Within the context of the Global Legal Studies this discussion has been focused around the idea of the emergence of what some have referred to as a post-Westphalian or maybe what we have preferred, a neo-Westphalian legal order. The project that has been discussed within GLS aims to explore what we have described as the “social life of neo-Westphalian legal innovations,” as a way to understand the emergence of a new global legal-political order.

A key aspect of this discussion has been the idea of legal innovation. In our discussions we have characterized legal innovations very broadly to incorporate a range of legal developments – from, on the one hand, the emergence of ‘soft law’ to new forms of legal pluralism while, on the other hand, the development of specific legal forms and institutions, for example the notion of prior informed consent in relations between indigenous peoples and development projects, or the construction of transformative or pluri-national constitutions. In this way the identification of legal innovation has become a key element in framing the boundaries of both the analytical framework as well as the project itself.

It is with this in mind that GLS is inviting colleagues from across the faculty to participate in an informal two-hour workshop to discuss the very idea of legal innovation. A cursory search suggests a number of different notions of innovation:

- innovation in legal markets (i.e. in the delivery of legal services);
- innovation in legal scholarship;
- legal innovation through experimentation or legal reform, and
- the idea of law and innovation referring to the world of intellectual property and scientific discovery.

Among these broad notions of innovation it is the idea of innovation in legal reform or alternatively in legal scholarship that comes closest to our prior discussions about legal innovation. In order to promote a discussion of legal innovation we have identified four articles and a few pages of a book and suggest that we all read at least a few pages of each – which are listed below – in which the authors frame their various notions of legal innovation.

Our suggestion is that we all read these few pages as a way to stimulate a discussion on legal innovation both inside and outside the academy. We might contrast different notions of legal innovation with the idea of new legal realism, or other scholarly approaches that are being discussed among our colleagues as well as other ideas of legal innovation itself. The overall purpose would be to help clarify the idea of legal innovation and to stimulate discussion among ourselves about this idea and how it relates to our individual scholarly enterprises.
Reading:

Selected readings prior to the workshop:


