

CUSTOM WITHOUT THE STATE

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Yuan DING

States' role in shaping customary international law is often overstated. Judges in international courts and tribunals identify rules that may not accurately reflect state behavior due to limited evidence. This discrepancy impacts the formation of customary law, with states sometimes adjusting their behavior to fit improperly identified rules.

In addressing this pressing concern, the City University of Hong Kong Law School orchestrated a captivating Young Scholar Forum. Leading the discourse was the esteemed Prof. Massimo Lando from the University of Hong Kong, whose erudition illuminated the room. Prof. Lando, an assistant professor at the University of Hong Kong's Faculty of Law and a seasoned international lawyer, previously served as an Associate Legal Officer at the International Court of Justice. Dr. Suhong Yang, representing the International Court of Justice, lent profound insights as the discussant, while the adept guidance of Prof. Martin Lai of City University of Hong Kong added finesse to the symposium's orchestration.

In a compelling presentation, Prof. Massimo Lando delved into the intricate dynamics of custom formation, challenging the conventional notion of states as central architects. He elucidated how states' practice and *opinio juris* are often inadequately utilized in identifying customary rules, leading to discrepancies between identified rules and those that have organically formed. Prof. Lando emphasized the pivotal role of clear and publicly available rules in setting conduct standards within communities. Moreover, he highlighted how once identified, customary rules dictate state behavior, sometimes prompting states to conform to improperly identified rules set by

international courts and tribunals, reshaping the traditional narrative of custom formation.

During the pivotal Q&A session, Dr. Suhong Yang ignited a lively dialogue, infusing the symposium with a fresh wave of insight and inquiry. His probing questions and discerning responses enriched the discourse, providing attendees with a deeper understanding of the complexities inherent in the formation of customary international law.

As the symposium drew to a close, the illuminating perspectives presented by Prof. Massimo Lando and the stimulating discourse facilitated by Dr. Suhong Yang resonated deeply with participants, offering profound insights into the intricate dynamics of customary international law. Guided by the skilled moderation of Prof. Martin Lai, the event culminated on a note of intellectual enrichment, underscoring the imperative of reassessing the traditional narrative surrounding custom formation in the dynamic realm of global governance.



Prof. Massimo Lando



Dr. Suhong Yang



Prof. Martin Lai