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**DIFFERENTIATION AND FRAGMENTATION: THINKING ABOUT
INTERNATIONAL INSTITUTIONS AS NORMATIVITY GENERATORS**

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Thinking about the WTO and ILO in this paper I am exploring the idea that where matters are dealt with has a potential impact on how those matters are dealt with. This entails a consideration of the “normative environment” referred to in the ILC’s 2006 Fragmentation Report; drawing out the fact that the fragmentation it referred to related to that of substantive law and specifically excluded institutions. Further, I explore how international legal institutions operate as normativity generators, being powerful actors in judicial interpretation and norm creation. This is their role, but I think some examination should be made here of the route back to legitimacy, i.e., whose will are such organisations expressing? In this sense I am talking about the role of international bureaucracies in norm generating; their self-perpetuating tendencies but also how or whether the policy derived from them can be held to account outwith the heart of the bureaucracy. Thus echoing/ reviving concerns from the first legitimacy crisis at the WTO but moving further in relating this to my broader thesis work of considering how trade and labour interact i.e. the international economic legal regime being one source of pressure on domestic labour policy space but with no obvious space for that to be challenged either domestically or internationally. One might compare the lack of concrete international forum for labour with the growth of protection and fora for foreign investors, i.e., the fall and marginalisation of labour versus the rise and systematised protection of transnational capital.