

International Relations Theory:

Analysis of the Effectiveness and Reach of International Law

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The main sources of international law come from the states' own political decisions, interstate politics, and resolutions by the United Nations. The customs of individual states' influence international law, as well as other states. Treaties that are signed by states' are recognized on an international level. The scholarly writings of academia are considered, and utilized on an international level. Furthermore, international law is highly influenced by general principles, and the judicial decisions of states.

LIBERAL & REALIST INTERNATIONAL RELATIONS THEORY

Liberalists believe that international law represents experiments in institution building which leads to world government. The military does not dominate the agenda. According to liberals, there are multiple channels that affect society at large. On the other hand, Realists do not desire international law because the focal point is strategy, and the reliance is on each states independent needs. In the state of anarchy, no other states matter to realists, except for the great powers of the world. Therefore, international law could be perceived as a tool for powerful states to gain what they want globally.

Considering the genocide in the 1990s in Rwanda. The United Nations did not even recognize the issue as "genocide" during the time it was occurring. Although Romeo Dallaire had warned the United States, time and time again, until it was too late, it was difficult for people outside of Rwanda to believe that something that devastating could actually happen. Especially in such a short time (around three months), and directly after the Nuremberg and Tokyo Tribunals. In the Post Cold War era, the majority of nation-states (namely the Western states) were caught up in a brief time of prosperity, and essentially isolated themselves from communications.

In this case, The United States, and France (the two greatest members of the United Nations) who did not act at an appropriate time, perceived their own security as more important than that to deploying troops when needed by the Tutsis.

Given a Realist perspective, the more powerful a state is the more influence that its' political beliefs can have upon international law. In turn, the state can influence weaker states. Also, this drives weaker states to cooperate with not only the more powerful states, but to form

alliances with other weaker states for economical, political, and militaristic purposes. The consequences of a powerful state dictating weaker states could result in an alliance that could grow, and advance more powerful than the state that is using force and/or influence over the weaker states.

Historically, this has been the case when it comes to hegemonies, whether it is an empire, republic, tyranny, monarch, or democratic nation-state. It is referred to as the "security dilemma". The possibility of this occurring also relies heavily on the weaker states' ability to essentially stab the more powerful state in the back; shaking hands with the enemy, while they are crossing their fingers behind their back. The goal for every state is to get what they want, so internationally, law would be used as a tool to wield power.

Still, cooperation actually happens more than Realists believe. The "prisoner's dilemma" states a state which pursues its' own self interests may end up worse than a state that acts contrary to rational self interest. The state might not obtain their individual wants, but through research in game theory, state's desire what is best for all involved; as opposed to self interest. An example of this would be the long history of war between Pakistan and India. Although they could have blown one another to bits awhile ago, since the establishment statehood in 1947, the two have slowly progressed into more friendly neighbors throughout time. That is not to say that they have not had many problems, but analyzing their relations over time, they have worked diligently to resolve some very troubling issues.

The question arises, why would the powerful state act internationally? There are many reasons for a powerful state to act. One being the pressure of NGOs, or other international organizations for a state that has the ability to assist other states regarding issues of human rights, criminal matters such as crimes against humanity, and things of this nature.

States may also act if they have economical ties with another state that is in conflict. Still, the power and status of non-governmental organizations in international law does not compare to the power of the individual state players, but they are highly influential in some cases. Also, economically and culturally, sub national governments (provinces, states, localities, etc.) do take a minor role internationally; and it is unprecedented.

As Thomas Hobbes suggested that man desires to form a social contract on the basis of being an anti social animal by nature, the fear of death, and the awareness of what life is like without such an agreement (solitary, poor, nasty, brutish and short), it can also be argued that internationally, states currently feel the same inclination with one another.

Additionally, Hobbes might also argue that if there is no centralized authority at the international level, all states would desire international power. Hence, there is a desire that states have to influence international law with their individual political thought. Yet, if all living things are equal in God's eye, individuals must hold some sort of obligation to uphold this social contract.

NATURAL LAW

Accordingly, on the subject of such an altruistic goal, as opposed to individual selfish motivation, natural law must be considered. A moral obligation to our fellow human beings must be considered when it comes to the theory of whether politics drive law, or law drives politics. As Aristotle illustrates in *Politics*, "For law is order, and good law is good order, but a very great multitude cannot be orderly; to introduce order into the unlimited is the work of a divine power-of such a power as holds together the universe(266)."

If individuals are empowered through the fact that there is some sort of a higher power that is above all humanity, than man has a sense of equality. In turn, this equality possesses a moral obligation. In modern times, there is a sense of the "global citizen", and the need for law on an international level is essential for human progression.

As natural law philosopher, John Finnis states in the *Fundamentals of Ethics*, "Treat humanity as an end, and never merely as a means(120)." Referring to Immanuel Kant's work on practical reasonableness, Finnis makes the argument that humanity has a moral inclination to pursue the interest of a global society over the self interest of the individual.

Legal principles of natural law, and morality of humanity may be difficult for some people to completely understand, but it can be argued that it is an unconscious behavior. As Epictetus stated, "Philosophy does not promise to secure anything external for man, otherwise it would be admitting something that lies beyond its proper subject-matter. For as the material of the carpenter is wood, and that of statuary bronze, so the subject-matter of the art of living is each person's own life." These naturalistic concepts have been a part of politics and law

throughout time; from the Stoic philosophy of ancient Greece to the creation of the Magna Carta in 1215.

POSITIVISM

A Positivist approach to international law is much more straightforward. This school of thought relies heavily on the practice and consent of law. In other words, the law is written, and followed verbatim. Those who use this approach to law focus on past court rulings (precedents). Cornelius van Bynkershoek, a legal theorist that developed much of the law regarding the Law of the Sea, wrote, "reason and usage" are the two sources of international law. This approach to international law includes a reciprocal obligation, based on the permanent usage collective reason of successive generations, and of various notions which imposes mutual consent. Positivism also tends to separate the concepts of law and justice. Lastly, unlike the beliefs of natural law theorists, and liberalistic ideas, positivism does not perceive court cases as individual, but follows the formalities based on past rulings.

WORK CITED

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