QUESTIONING THE SIGNIFICANCE OF INTERNATIONAL LAW

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INTRODUCTION

International law and relations scholars have studied the force of norms in international affairs for decades, but the end of the Cold War, and its implications for international law's potential, have sparked a significant increase in interest in the compliance question. Political scientists, regime theorists, international law practitioners, and legal philosophers have all been drawn to the idea that international law matters in the last decade.[1] International norms, like other laws, are rarely enforced, even though they are commonly observed.[2] Although this phenomenon has been studied by psychologists, philosophers, anthropologists, and domestic attorneys in the context of domestic law,[3] It has received far less direct attention on the international stage. In scholarly debates about international law reform, however, the decline of national sovereignty has been paralleled by the growth of international regimes, institutions, and non-state actors,[4] The blurring of the public-private boundary, the rapid development of customary and treaty-based standards, and the growing interconnection of domestic and international institutions are all factors to consider. As Franck puts it, "this usher in the post-ontological era of mature and sophisticated international law."[5] On the route to the reader's eye-sight, the most essential rhetorical query appears. What does the term "international law" imply?

Contemporary international law refers to the norms and practices that govern the behavior of nations and other entities having international personalities at any given time. To the degree that states allow it, international organizations and individuals, for example, can do so. This is a working definition that accepts entities other than states as global actors and respects the international legal system. Although states remain the most important subjects of international law, they are no longer the only ones. On the other hand, the traditional understanding of

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[1] Robert F. Meirer & Weldon T. Johnson, *Deterrence as Social Control: The Legal and Extralegal Production of Conformity*, 42 AM., Soc. Rev. 292 (1977); Philip E. Tedock, *Social and Cognitive Strategies for Coping with Accountability: Conformity, Complexity, and Bolstering,* 57 J., Personality & Soc. Psych., 632. (1989)

[2] Hans J. Morgenthau, *Politics among Nations: The Struggle for Power and Peace,* 249-52. (2nd Edition, 1954)

[3] Martin L. Friedland, *Sanctions and Rewards in the Legal System: A Multidisciplinary Approach,* (1989); Robert S. Gerstein, *The Practice of Fidelity to Law,* 4 L. & Soc'y Rev, 479. (1970)

[4] John T. Scholz, *Voluntary Compliance and Regulatory Enforcement,* 6 Law & Pol'y, 385. (1984); Richard D. Schwartz & Sonya Orleans, *On Legal Sanctions,* 34 U. CHI. L. REV, 27. (1967)

[5] Thomas M. Franck, *Fairness in International Law and Institutions.* (1995)

international law as a framework that guides state interactions is too rigid and outmoded. International law has had to adapt to changes in the international arena and must continue to do so. The international legal system must reflect and contribute to today's global community's formation.[6] There are no prescriptive standards that demand the exercise of authority in the jurisdictional element of international law. However, there must be qualified phrases in light of international accords that, for example, require a contracting party to extradite or punish the suspected criminal.[7] For the most part, the state retains control over the exercise of authority. A state's authority can be exerted on the following grounds:

The Territorial Principle

The Nationality Principle

The Protective (or security) Principle

The Universality Principle and

The Passive Personality Principle.

The first four principles were agreed upon at the Harvard Research Draft Convention in 1935. On the other hand, contemporary international law requires a physical relationship between the accused offender and/or the incident's location and the state exercising jurisdiction.[8] The author would like to take a minute to emphasize that, while the article's main focus is on whether International Law is law, the author will avoid the urge to delve into the jurisdictional features of International Law and will instead return to the main issue.

Peter Kovacs made the following statement about being forced into the same subject as the author aims to deliver a dictum on in an interview with professor emeritus Hanna Bokor-Szego on everyday International Law:[9] A great number of international rules are predicated on the interests of all states being united. Every day, tens of thousands of these rules are applied without anyone noticing. Violations can happen as a result, but they are relatively rare. The most global international treaty is the Universal Postal Convention. When colonialism was still in effect, colonies had their independent postal administration. Because every state desired to

[6] Adobe, phone3/4/22
[7] ICJ, *Questions Relating to the Obligation to prosecute or Extradite*, (Belgium v. Senegal), Merits, 20 July 2012.
[8] Bank of Bankovic v. Belgium, No. 52207/99 (2001) 11 B.H.R.C. 435
[9] Professor emeritus Hanna Bokor-Szego on Everyday International Law, *Interview made by Peter Kovacs*, translated by Eszter Kirs.

be able to deliver mail and parcels to its citizens anywhere in the world, they were referred to as affiliated members.

"International law is part of our law," the US Supreme Court famously declared, "and must be determined and administered by courts of appropriate jurisdiction as often as questions of right relying on it are legally filed for resolution."[10] Let's take a look at International Investment Law once more (hereafter IIL). In finding that IIL is a sort of public law, a Russian study of international legal regulation of foreign investment took the Western method.[11] Alexandra Bogatyrev investigated the prospect of the Institute of International Law becoming a public international law institute in 1992.[12] In the work International Economic Law, IIL is referred to as the "international regime of foreign investment."[13] IIL, as well as International Trade Law, International Financial Law, and International Transportation Law, are considered subfields of Public International Law by those who adopt this viewpoint.[14] To satisfy the demands and expectations of the modern world, international law is constantly changing and expanding. There has been an upsurge in what is known as a transnational crime as a result of globalization. One example of such a crime is human trafficking. These types of offenses necessitated a shift in the territorial principle. Certain jurisdictions, for example, whose residents are accused of being the principal offenders of child sexual exploitation, have introduced legislation to widen the territorial application of their criminal laws. Australia took the lead with the Crimes (Child Sex Tourism Amendment) Act.[15] Sweden, Norway, France, and Japan are among the countries that have followed Australia's lead. There is no international police force and no international court with mandated authority to which countries must be subject. The creation of a permanent International Criminal Court, as well as other judicial and quasi-judicial bodies for peaceful dispute resolution, reflects a growing commitment to the rule of law. This is reflected in the growing docket of the International Court of Justice (ICJ), to which states can refer their disputes for resolution.[16] Finally, the author would like to discuss global warming. Climate change is a potentially terrible problem with a clear common good solution. An international

[10] Hilton v. Guyot, 159 U.S. 113. (1895)
[11] Damitry Labin, *International Legal Regulation of Foreign Investment.* (2001)
[12] Alexander Bogatyrev, *Investment Law.* (1992)
[13] Alexander Vylegzhanin, *International Economic Law,* 182-191. (2012)
[14] Natalia Doronina, *Regulatory Principles as an Interpretational Source for Legal Norms (the case of Bilateral Treaties on Investment Protection),* RUSS. L.J. 123 (5). (2016); Olga Tolochko, *On the Question of the Legal Regulation of Contemporary International Economic International Economic Relations,* S. FED. UNIV. L. SCH. NEWSL. 66 (1). (2005)
[15] Australian Crimes (Child Sex Tourism Amendment) Act, 1994, Pt III A.
[16] The American Law Institute, *Restatement of the Law the Foreign Relations Law of the United States,* 1, 1-488. (1986)

tribunal might adopt the opinion of Juris communis[17] jurisprudence and the United Nations Framework Convention on Climate Change (UNFCCC), which committed states to a non-binding goal of reducing carbon emissions and observing scientific reports indicating that the planet is in dire danger. An international tribunal might impose a customary rule requiring governments to reduce carbon emissions in the public interest based on deliberate reasoning. Despite their shortcomings, treaty regimes have established the de facto international legislative process. The Ozone Treaty, the World Trade Organization, and the UNFCCC all use more deliberative and inclusive norm-setting processes. The law of the sea explains how competing interests and points of view might be reconciled during treaty talks. Ongoing treaty regimes for environmental degradation and foreign investment law may well be more legitimate and effective than the formalistic debates about what constitutes evidence of opinion Juris.[18]

The author wants to generate a one-of-a-kind collection of analyses based on thorough research and never-ending contemplation on the chosen issue by doing so. According to Lois Henkin, who claimed three decades ago, almost all states observe almost all principles of international law and almost all of their obligations almost all of the time.[19] According to Article 253 of the Indian Constitution, Parliament has the authority to make any law for the entire country (entry 14 of the Union List confers on the Union Parliament exclusive power to make laws concerning entering into treaties and agreements with foreign countries and implementing treaties, agreements, and conventions with foreign countries, as well as foreign affairs that bring the union into relation with any Foreign Country).[20] Article 103 of the UN Charter states that in the event of a disagreement between the members' responsibilities under the current Charter and their commitments under any other international agreement, the members' responsibilities under the current Charter will take precedence.[21] The world has altered tremendously in the previous few decades. The world is increasingly like a global community. Any modification in the law is based on the evolving requirements and desires of people in different countries. Domestic laws are amended following the country's signature on international treaties and conventions. In addition, economic power is distributed. Poverty has substantially decreased over the world. Since adopting a mixed economy with private property, many formerly Third

[17] B.S. Chimni, *Customary International Law: A Third World Perspective*, 112 AJIL 1. (2018)
[18] *Ibid*
[19] . Louis Henkin, *HOW NATIONS BEHAVE*, 47. (2d ed. 1979)
[20] Mahendra Pal Singh, *V.N. Shukla's Constitution of India,* EBC, 818. (13th Edition, 2017)
[21] Hans Corell, *Miskole Journal of International Law,* Vol. 3, 38, 39-40. (2006).

World countries, such as China, India, South Korea, Indonesia, Malaysia, Singapore, Thailand, South Africa, Botswana, Brazil, Chile, and Vietnam, have reaped the benefits of globalization and the spread of technological innovation. Finally, the article's concluding section will be based on certain case laws that support the author's viewpoint that International Law is truly a Law, a law that does not entail codified punishments and procedures to be followed under a written constitution, but rather evolves as the world becomes a small village clubbing International Treaties and Conventions, Human Rights Rules and Laws, and Sea Laws, all of which are eventually relied upon by nations when they a dispute arises.

In Coker v. Georgia[22], for example, The Court's emerging standards review found international norms concerning the death penalty for rape to be relevant. In Enmund v. Florida,[23] The felony murder hypothesis has been abolished in England and India, severely prohibited in Canada and several other Common Wealth countries, and is unknown in continental Europe, according to the court. In Thompson v. Oklahoma,[24] In examining the Eighth Amendment's civilized standards of decency, Justice John Paul Stevens ruled down the death penalty for minors under the age of fifteen, noting restrictions on the execution of minors in the Soviet Union and Western Europe. Furthermore, three significant international human rights treaties, notably the Geneva Convention, which the United States had accepted in its article 68, expressly prohibit the execution of minors.[25] As a result, it is not incorrect to assert that International Law plays an important role in ensuring a united globe that is diffused with the growing mix-developmental demands of the current generation and future generations, who do not have a fixed area of settlement but rather nomadic traits that suit their best interests.

[22] 433 U.S. 584, 596 n.10 (1977).
[23] 458 U.S. 782 (1982)
[24] 487 U.S. 815, 830 (1988)
[25] American Convention on Human Rights, Nov. 22, 1969, Art 4 (5), 1144 UNTS 123; Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, Art. 68, 6 UST 3516, 3560, 75 UNTS 287, 330.

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