

INTERNATIONAL LAW



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PEER INSTRUCTION

- What role do think there is for international law in the international system? Is it a force for good, or for ill?

INTERNATIONAL LAW

- Neorealists: International Law is epiphenomenal
- International law scholars: But it does matter!
- International law: core international institution
- Remember: Institution ≠ Organization

INTERNATIONAL INSTITUTIONS

- Three levels of institutions in international society
 - Deep or constitutive
 - Fundamental
 - Regimes
- Before the 19th century: Divine law
- Rise of liberalism and nationalism changed law → reciprocal

CHARACTERISTICS OF INTERNATIONAL LAW

- Multilateral
- Consent-based (remember ICJ?)
- Specific language
- Autonomous



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IS INTERNATIONAL LAW CHANGING?

- Traditionally, international law ↔ international society
- Changes in the system have changed international law
 - Non-governmental actors
 - Transnational concerns

PEER INSTRUCTION

- Do you think international law regulates the initiation and conduct of war?

INTERNATIONAL LAW AND WAR

- The role of international law most obvious when it comes to regulating the initiation and conduct of war
 - Jus ad bellum
 - Jus in bello

WHAT DOES THEORY SAY ABOUT INTERNATIONAL LAW?

- Realism
 - Skeptical
 - Can you have law without a sovereign?
- Neo-Lib Institutionalism
 - International law underpinned by rational self-interest of states
 - Law is regulative (governs behavior)
- Constructivism
 - Underspecified
 - Could be that law is constitutive (shapes construction of self)

WHAT DOES THEORY SAY ABOUT INTERNATIONAL LAW?

- 'New' Liberalism
 - Individual is primary
 - Emphasizes the role of domestic politics
 - Law binds actors together
 - Human rights law at the 'core' of international law because primary law is that governing state-individual relations



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WHAT DOES THEORY SAY ABOUT INTERNATIONAL LAW?

- Practice theory
 - Key question: why do states feel duty bound to observe international law?
 - Answer: Socially constructed through legal practices.
 - Commitment is internalized through participation in legal processes and practices

WHAT DOES THEORY SAY ABOUT INTERNATIONAL LAW?

- Critical Legal Studies - How does law work to maintain the system rather than allow for meaningful change?
 - Argues the liberalism of modern international law produces unproductive duality between rationalization of existing order and belief that law can civilize international relations
 - Four critiques
 - Int'l law is internally inconsistent: law based on particular values of individual states, but law as applied is application of objective and value neutral rules
 - Int'l law based on two pillars: liberal ideology and public international legal argument
 - Laws do not have singular and objective meaning: they can be used to justify multiple and competing outcomes
 - International law's authority stems from its own internal rituals rather than an external source
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INTERNATIONAL LEGAL ORGANIZATIONS

- International Court of Arbitration
- International Court of Justice
- International Criminal Court
- International Tribunal for the Law of the Sea
- UN and UNSC

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