

HOW EFFECTIVE IS INTERNATIONAL LAW?

International Law is the body of legal rules that apply between sovereign states, and such other bodies, which are regarded/acknowledged highly, by the international community. We know that International Law exists, as there are three main sources. These are; Treaties, Customs, and Reasons and Authority. International Law is unlike the American constitution, as it cannot be stored as one single document. It is like the British constitution, as it is very adaptable and flexible, which means it is open to change. Unlike the British constitution, International Law does not possess a legislature. This would probably make it weaker than the Britain's constitution. But the question of whether or not International Law exists, is not really a problem. The main argument is the willingness to observe and enforce it that is questioned.

States give great importance to International Law. They employ, at great expense, a body of international lawyers/barristers, who work within the Foreign Commonwealth Office. Their job is to check foreign policy, and ensure that it falls in line with International Law. For example, the North Atlantic Treaty Organisation (NATO), actions in Kosovo was argued to be within International Law, as they were upholding resolutions by the United Nations Security Council (UNSC). So if states do not take International Law seriously, then why would they spend so much money and effort on it?

International Law can lead to international prestige and trust, if it is upheld by a state. A recent example of this is the American president, Bush and Britain's Blair, have tried to keep within International Law over their attack on Saddam Hussein's Iraq. But going against International Law could/probably would lose a state prestige, trust and most importantly allies. For instance, when Iraq invaded Kuwait, they broke international sovereignty. As a consequence Iraq lost their support from Russia.

The political commentator Brownie (1990), describes Private International Law as where the majority of transnational disputes are regularly settled. Private International Law is largely 'invisible' to the public, but is the focus for all. Private International Law is very effective, as it is uncontroversial and invisible. But it underpins everyday travel, trade and communications between states. Hence aiding globalisation.

However, It suffers from a number of limitations. Firstly it lacks universality. So not every country agrees with the values. We have to remember that this is very much based upon Western Liberal Democracy, such as Britain and the US. So countries such as Iraq, North Korea, China etc would not agree with its values, as they are completely different to their own beliefs. It is also used to gain self-interest, and maintains positions of power. Therefore it is not used neutrally. It is also agreed that it is used by the powerful to oppress the weak. For example, the global north (US) oppress/exploit the global south (mainly African states). Also it is a great tool for propaganda, as it enables states to justify their actions, for the benefit of the state to others and to their own population. For example, the United Nations action in Kuwait was most likely not to do with sovereignty, but upholding economy based on oil. This is obviously an American interest. Another example is China. China holds sovereignty very dear. This is due to their Human Rights records. Especially with regards to Tibet. They fear that the west may intervene, upholding sovereignty ensures that this can't happen!

The core principle of International Law is sovereignty. Sovereignty means that no authority is legally above the state. So this undermines the developing and appliance of International Law, and it's bodies. For example Human Rights and Distribution of Wealth. Also the wording is very vague and ambiguous, this allows an 'elastic' interpretation. Which could help states justify their actions to uphold power. Another obvious problem is that it can be interpreted in several ways, over the same issue. For instance the US's action in Nicaragua in the 1980's, where the CIA (US), acted against the Sadinista government.

The law can be disregarded if it upsets the 'balance of power'. This could lead to a foe possibly gaining more allies and actually dominate. A perfect example was when Italy invaded Abyssinia (Ethiopia), Britain and France practically did nothing. This was due to them fearing Mussolini would be thrown into an embrace with Hitler. This would have increased Fascism positioning/grip on Europe.

International Law has decreased inter-state conflict, as it has increased in application and development. Most wars are civil wars. However, the real reason may be the scale of inter-state warfare involves great risks. Especially with the added risks of nuclear weapons. Mutually Assured Destruction (MAD) may actually be making conflict less likely. But this could be proven wrong, if the US and the majority of the United Nations do decide to attack Iraq.

Domestic Laws are the laws that are based in the states themselves. This usually seen as a good comparison for success. But not all of the domestic laws receive total compliance. For instance, speed limits are very often broken. Even though this does happen, domestic law is not discounted. So why should it be done with International Law?

Some political commentators suggest that the pluralistic enforcement, methods used in pre-industrial societies can achieve success. It means that individuals could call upon others to achieve revenge, retribution etc. So basically 'collective security'. Also International Law has the benefits of the British constitution. So it is possible to adapt and change to suit modern conditions. So the global south (third world) views can be adopted into it. It can meet the ever-changing conditions in the international system. For example the 'War on Terrorism'.

There are no enforcement mechanisms, this leads to a number of problems. As it is down to the states to enforce. Also other states will only get involved to help another state uphold International Law if it is within their own interest. Another point, is that if a powerful state is the aggressor in a situation, then who is going to confront them? For example, when America invaded Grenada during the 1980's no one really did do anything about it. Also, no other state did anything about China, and their extremely poor Human Rights. This is probably due to them possessing nuclear weapons.

Other aspects of International Law are the courts. The European Court Of Justice (ECJ) is arguably the most effective court. It is noted for its impartiality and integrity, it rarely gets involved in political matters, and has freedom

from political pressure. Only France has refused to accept a ruling, this was on Lamb Imports from the UK, in 1979. It is in a prime location in Luxembourg, which has meant that the media has left them to their own devices. Without major attention, it could work without fearing a media inspired outcry over its decisions. The ECJ has been assisted by the National Courts. Having tied itself to the reputations of the National Courts, it is difficult for politicians to attack the ECJ, for fearing that they will also be attacking their own courts! Therefore this National/Community link has led to the ECJ being respected throughout the community.

However, recent European Parliament versus Council of Ministers battles has burdened the ECJ with political decisions, meaning that the media is increasingly taking an interest with its decisions. This will be even more so with the Anglo-French Beef Crisis of 1999, where the outcome lies with the actions and decisions of the ECJ. Also the enlargement of the European Union will possibly bring in Eastern European states, and even Turkey, which most defiantly challenge the ideas of the Western Justice transition from Communism, or Turkey's and other states' Islamic/Koran based traditions. This may reduce the ECJ's universality.

The International court of Justice (ICJ) is the principal judicial organ of the UN, being the most far-reaching attempt to apply International Law. Its statute is annexed to the UN Charter. The ICJ has unfortunately had limited success. Only a limited number of cases are brought before the ICJ. The ICJ lacks any enforcement powers of its own. The UN Security Council could decide on the measures to be taken to give effects to judgement. However, it has never done so. A sign of this weakness was in 1946, the ICJ's first year. When British ships were damaged, and lives lost, as Albania had apparently planted mines in the Corfu Channel. The ICJ viewed the case, Albania consistently refused the judgement and pay the damages. So if Albania can defy the ICJ, then anyone could! The ICJ was born in an environment that was hostile to its usage, the years of the Cold War. The Great Powers were not willing to use the ICJ during this time. For the Communist Soviet Union and China, perceived it as a pillar of Western Capitalism. Whilst the US viewed it as the instrument of Communism and the Third World states, acting against its national interests and democracy. Some claim that the Cold War froze the ICJ out and could arguably been effective for twelve years. So the ICJ is still fairly young, and is still learning. If it was to build a body of principles over a longer period of time, then it maybe more successful.

Another aspect of International Law War Crimes Tribunals. The most recent effective war crime tribunal case is the Yugoslavian case. The Yugoslavian Prime Minister Milosovic is still currently being held a

questioned about war crimes. The resources that were available for this case were ones of high quality. For instance, Britain and France gave money, the Dutch gave the Hague Security, NATO forces made the arrests and the best lawyers were willing to work on this case. But this has not always been the case. For instance, the tribunal in Rwanda. It was set-up for the murders of hundreds of thousands of people killed in Rwanda in 1994. It was based in Tanzania. Tanzania is based in the global south (a third world country). Therefore the resources that were available were atrocious. There was a lack of hotels for the lawyers and judges etc to stay in. The conference centres were not up to standard. They were behind schedule most of the time. So basically the whole thing was a farce.

It seems as though International Law is only used and enforced when it suits the powerful, when they know they can win at little cost. But it is also effective. For instance the ECJ is a well-respected organisation, and has resolved issues. War Tribunal has brought the evil Milosovic to justice, and even though there are still some war criminals at large, they are indictment, which means that they on the run for the rest of life. So yes, International Law is not very effective in terms of the ICJ, but it has been successful in other areas.