International Journal of Law, Justice & Statutory Affairs
Volume 2, Issue 2, 2026

International law's conceptual underpinnings: An investigation into legal science

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Research Article

Date of Submission: 08-03-2026 **Date of Acceptance: 14-04-2026** **Date of Publication: 23-05-2026**

Abstract
This essay traces the development of international law from its religious origins to its current secular form by examining its philosophical foundations via the prism of legal science. Early international legal theory provided a moral-legal justification for empire, invasion, and dominance. It was rooted in Christian teachings that sanctified power as divinely granted. The 1648 Westphalian shift, which established state sovereignty as the cornerstone of international law and relations, was a significant step toward secularism, but it did so within a Eurocentric framework that solidified Western hegemony. Under the pretence of legality and moral responsibility, the dominant jurisprudence was used to legitimise colonialism, slavery, and expropriation via legal conceptions like terra nullius and the Doctrine of Discovery. International law has always represented a dialectic between state interest and moral aspirations via natural law ideas, religious doctrine, and economic utilitarianism. This investigation argues that what is often portrayed as a neutral and all-encompassing system is really a contingent infrastructure of dominance, maintained by unequal power relations and selective compliance. The persistent conflict between natural law and positive law, as well as between consent and ethics, highlights the inherent inconsistencies present in the international legal system. This basis is contested by critical legal theory, which calls for a reinterpretation of sovereignty based on equality rather than exclusion and reveals the systemic prejudices of the international legal system. In the conclusion, this essay argues that if international law is to function as a genuinely equitable and universal legal system, it must address its philosophical and moral inconsistencies.

Keywords: Realism, sovereignty, international law, philosophy, natural law, positive law, critical legal theory, and the concept of discovery

Introduction

In that it methodically investigates the values that underpin rights, obligations, and justice in society, law is a legal science [1]. It functions in the normative domain, using interpretation and reasoning to address what should be, in contrast to empirical sciences [2]. Its scientific essence is one of disciplined, logical inquiry rather than precise measurement, as it pursues coherence, legitimacy, and justice via jurisprudence. The juridical, where legal reasoning is applied in a disciplined and orderly way within frameworks of institutional authority and normative coherence, reflects law's status as a legal science.

The study of law from a theoretical or philosophical perspective is often referred to as jurisprudence [3]. It investigates the nature, origins, intent, and legitimacy of law as a topic of study [4]. Questions of normativity and legitimacy particularly highlight the relationship between jurisprudence and international law [5]. 1 "[Law] must be the science of liberty, an inexact science, since it straddles individuality (ego) and community (ens sociabilis), which is not to be confused either with personal morality or public opinion." Every normal person has an inbuilt sense of morality: people are equal in theory but not in reality; equal quality results in larger or lower, or disproportionate, amount. Even while it is always based on the subjective assessment of someone who is just as prone to mistake as any other human, the law establishes what is good and appropriate; it is the rule of reason and truth. For further information, see: Sergio Moratiel Villa, "The Philosophy of International Law: Suárez, Grotius, and Epigones," International Review of the

Red Cross, page 540.

This may be seen in discussions over whether international law is a legal system in the absence of a centralized enforcement mechanism [7] and in situations where the authority of international law is compared to that of domestic law [6].

The core and goals of international law are compromised, according to realists, by the absence of a global sovereign, the selective implementation of international rules, and the impact of geopolitical interests [8]. From a jurisprudential perspective, "natural law" [10] and "legal positivism" are often used to frame the conflict between "state-sovereignty" [9] and the universality of legal standards. [11] Natural law theorists, who derive their authority from moral reasoning or a higher normative order, contend that human rights are intrinsic, unalienable, and globally enforceable regardless of governmental agreement.

Legal positivism, on the other hand, maintains that sovereign nations' voluntary assent is the only basis for the validity of international legal responsibilities, especially those pertaining to human rights. By doing thus, they support the international legal order's emphasis on state autonomy. More critically, the ethical underpinnings of international law are contested by natural law researchers and the Critical Legal Studies ("CLS") movement.

Evolution of international law from a philosophical perspective

Sovereignty was seen in medieval Europe as a spiritual and universal order rather than as a means of controlling territory.

For further information, read Ronald A. Brand, "Sovereignty: The State, the Individual, and the International Legal System in the Twenty First Century," 25 Hastings International and Comparative Law Review 279 (2002), page 279. A sovereign state is one that recognizes no higher authority over its own government.

10 "There are several types of laws. There is state law, which represents the interests of a certain community (jus civile). Men have created a law of nations (us gentium) for their contact with one another. However, there is another legislation that articulates a more elevated and long-lasting ideal. For further information, see James V. Shall, S.J. It is the law of nature (jusnaturale), which translates to "that which is always good and equitable," (bonum et aequum). Fordham International Law Journal, Vol. 15, Issue 4, (1991), page 997, "Natural Law and the Law of Nations: Some Theoretical Considerations."

11 For more information, read Carlos S. Nino's "Dworkin and Legal Positivism," Oxford University Press on behalf of the Mind Association, Mind, Vol. "The term 'legal positivism' is used in many different senses referring to clearly distinguishable and sometimes mutually incompatible theses." 89, No. 356, page 519 (October 1980). unity under divine power and based on Christianity [12]. The Pope symbolized both moral and legal power over Christian peoples as the earthly manifestation of God's sovereignty [13]. God's law, not the monarch, was sovereign, according to this theologically based definition of sovereignty, which rejected the idea of a superior territorial entity unrestricted by higher authority [14].

But when early modern "political philosophy" gained popularity, especially in Thomas Hobbes' writings, this idea changed. Hobbes focused on the "secularization" of sovereignty, presenting it as an essential, absolute power held by a single human authority, the sovereign, whose legitimacy came from the "social contract" as opposed to divine ordination [15]. The purpose of the sovereign was to keep property, peace, and order from collapsing into the "anarchy" of the natural state. The contemporary state structure and, most importantly, the territorialization of power were made possible by this transition from divine universality to secular absolutism [16].

Western dominance over non-European peoples, especially in Africa, was justified in large part by this reinterpretation of sovereignty. African societies, which were frequently governed by non-territorial or communal forms of authority, were rendered legally non-sovereign and thus outside the purview of international law [18] as European powers built a legal and moral order based on territorial sovereignty and the civilizing mission [17]. This exclusion's moral and intellectual foundations were based on a Eurocentric worldview that associated legitimacy with logic, development, and Western-style "Montevideo statehood" [19, 20].

Conversely, the prevailing understanding of statehood is contested by constructivist and critical legal academics since it ignores the political community that makes up the state [21]. Statehood's normative

underpinnings are obscured and regimes that do not operate in the public interest may be recognized when it is defined in merely formal criteria or institutional terms [22]. With roots in political legitimacy and "self-determination" traditions, the notion of a state acting collectively on behalf of its people adds a moral dimension to sovereignty [23].
African sovereignty was often ignored or subjugated in the colonial and postcolonial environment since indigenous political groups were not allowed to participate in the legal system despite their collective identities and systems of government [24]. Although legally acknowledged, a state's sovereign authority becomes unethical when it serves private elites or outside forces instead of its own citizens. This discrepancy highlights the need of reevaluating sovereignty as a moral claim based on internal legitimacy and the common good, rather than only as a legal position.
using theories such as "terra nullius" [25]. With the mandate system, international law—disguised as the language of civilization and order—became a tool for imperial control [26]. Indigenous systems of government and moral order were delegitimized by the shift of sovereignty from a theologically universal idea to a territorially restricted right [27]. From a philosophical and legal perspective, terra nullius is a reflection of a colonial logic that treats populated territories as belonging to no one, dehumanizing local inhabitants by making them invisible under international law [28].
Thus, structural inequality became ingrained in the very fabric of international law as a result of the intellectual development of sovereignty, which not only made it easier for the modern state to ascend to power but also allowed it to be used as a weapon against non-Western nations. The foundation of arguments supporting the connection between morality and the law is the idea that moral standards are the source of the law's validity and lasting authority [29]. Moral principles are seen as

23 "Peoples' right to self-determination is an elusive concept." The term "peoples" and what the right comprises are not well defined. Rather, self-determinations are interpreted in a variety of ways, some of which are contradictory. These different readings are not only interesting from an intellectual or theoretical standpoint. For further information, read Helen Quane's article "The United Nations and the Evolving Right to Self-Determination," The International and Comparative Law Quarterly, July 1998, Vol. 47, No. 3, page 537 (July 1998).
24 For further information, see Beluce Bellucci's article "The State in Africa," The Perspective of the World View, Vol. 2, no. 3 (2010), page 14. "The great West African empires, such as Ghana in the eighth century, Mali in the fourteenth, and Songai and Bornu in the sixteenth, were organized politically on the basis of trade with the Arab world." The URL is https://portalantigo.ipea.gov.br/agencia/images/stories/PDFs/rtm/1211 29_rtm_ingles03_cap3.pdf.
25 "Being terra nullius is not only a negative justification because it does no harm to others; when combined with the teleology of civilization, it could be a positive justification for the acquisition." For more information, see Sookyeon Huh's "Title to Territory in the Post-Colonial Era: Original Title and Terra Nullius in the ICJ Judgments on Cases Concerning Ligitan/Sipadan (2001) and Pedra Branca (2008)," The European Journal of International Law Vol. 26 no. 3, page 715, EIJL (2015). accessible at http://www.ejil.org/pdfs/26/3/2602.pdf
26 Ibid.
27 Ibid. at 716
28 “[W]as Western Sahara a territory that belonged to no one (terra nullius) at the time of Spanish colonization?The problematic nature of the idea of terra nullius, which views indigenous people as "nothing," is easily understood (nullius). It is important to remember that the idea of original title was defined in broad terms, had worldwide geographical validity, and was thus relevant not just to interactions between European and non-European governments but also universally.
29 “[Law] as a generalized medium is not only more widely utilized; the form of law also changes according to the imperatives of a new kind of requirement.” See Jurgen Habermas’ "Lecture One: both the origin and guide for the development of legal systems" for further information. Despite their differences, morality and legality work together to influence human behavior in both theory and practice [30].
Regarding the impact of morality on legal systems, natural law theorists and positivists may agree to some extent [31]. Any rule that is considered unjust is not a real law, according to philosophers like Thomas Aquinas and John Finnis [32]. Natural law theorists argue that moral order influences and predates legal

systems from a wider angle [33]. During the Middle Ages, morality served as the foundation for legal philosophy, while natural law was based on Christian theology [34]. Natural law ideas with logical moral underpinnings were well-known by the 17th and 18th centuries [35].
The connection between morality and the law dates back to ancient Greece [36]. Actually, the "doctrine of natural rights" [37] offered a theoretical moral
The Tanner Lectures on Human Values, given at Harvard University on October 1 and 2, 1986, page 220, "How is Legitimacy Possible on the Basis of Legality?"
30 "The legal model of morality, which is of great significance here, is regarded as the most common concept of morality, following the nature of humans in their social or communal institutions knitted together by certain guiding principles. The early moral experience demonstrates that norms that are widely accepted in the community are put in place to maintain harmony among individuals who might otherwise go in divergent self-serving ways. Because these laws were created for the common good, "individuals felt obliged to obey them, either out of personal conviction or because they feared punishment." Because most societies had this type of legal system, many people saw morality primarily in terms of the law. For instance, God is seen as the ultimate lawmaker who punishes transgressors. Similarly, individuals believe that violations of natural laws are punished in different ways. For more information, read John S. Ezenwankwor's "Law and Morality: An appraisal of Har's Concept of Law," Claretian Communications, Enugu, Nigeria (2013), pages 20–21.
31 "A corpus of ideal moral law on the one hand and natural law on the other had been compared with positive law up to Kant. Rather, Kant put the unchangeable rules that govern the creation of law—the standards by which legislation and law-making must be evaluated—against positive law. Positive law and ideas, according to Kant, are creations of human understanding. However, a study of the evolution of moral concepts throughout history makes it abundantly evident that moral demands do not originate from people's independent thinking. For further information, read Raghunadha Reddy's "Role of Morality in Law-Making: A Critical Study," Journal of the Indian Law Institute, April-June 2007, Vol. 49, No. 2 (April-June 2007), pages 195-196.
32 Michael Baur, "In Defense of Finns ON Natural Law Legal Theory," Vera Lex, New Series, Volume 6, (2005), page 37.
33 Raghunadha Reddy, supra, note 31 at 195.
34 Ibid.
35 Ibid.
36 Ibid.
37 "To summarize the main point, Locke states that in order for the law of nature to be a law, it must not only have been given by God and be known to have been given by God, but it must also have divine "rewards and punishments, of infinite weight and duration, in another life" as its sanctions. However, he also asserts that reason cannot prove the existence of another life. We are only aware of the penalties for the rule of nature, or "the sole genuine touchstone of moral
foundation for legal order. This influence continued into classical Rome, where jurists attempted to articulate the content of natural law as a rational and universal standard by drawing on Greek ethical philosophy [38]. As a result, Roman legal thought produced a philosophically grounded conception of law called "jus gentium," which combined ethical ideals with the formal structure of Roman legal precepts; this is an early example of the integration of moral reasoning into legal doctrine [39].
In England, the development of equity through the "Court of Chancery" [40] reflected the integration of ethical principles, derived from casuist literature and prevailing notions of justice, into legal doctrine [41]. Similarly, at the international level, jurists converted moral obligations into legal duties, establishing the individual as both a moral and legal subject [42]. This evolution demonstrates the doctrinal progression from moral norms to equitable principles, and ultimately to enforceable rules of law across legal systems. Lon L. Fuller, in his concept of "the internal morality of law," [43], highlighted that prominent positivist, despite his "separation thesis,
[45] recognized the "minimum content of natural law" [46].
rectitude." As a result, natural reason cannot recognize the rule of nature as a law. However, Locke believes that there is "a law knowable by the light of nature, that is, without-out the help of positive revelation." According to Leo Strauss, "On Locke’s Doctrine of Natural Rights," The Philosophical Review,

Oct., 1952, Vol., if such a law is to exist, it must comprise a set of rules whose validity does not presuppose life after death or belief in life after death. 61, No. 4 (October 1952), page 475.
39 Ibid.
40 "Ethical concepts from the casuist literature of the sixteenth century10 and the general notions of right and wrong held by chancellors were liberalizing agencies in England with the rise of the court of chancery and development of equity," Ibid.
41 Ibid.
42 Ibid.
43 "Fuller's second set of moralities includes what he refers to as the "external morality of law" and the "internal morality of law." The latter is primarily focused on the process of enacting laws. It is the method by which the legislator chooses which substantive law rule to apply to the specific instance that he has been asked to resolve. For additional information, see Edwin W. Tucker's "The Morality of Law, by Lon L. Fuller," Maurer School of Law: Indian University, Digital Repository, Indiana Law Journal, Vol. The "external morality of law" refers to the content of the substantive rules of law that the arbiter actually applies in reaching his decision. 40, Issue 2 (1965), page 272.
44 Peter P. Nicholson, "Fuller and His Critics: The Internal Morality of Law,"
45 "Those critics of Hart who criticize his separation of morality and law assert that we cannot avoid making judgments of type (la) when making descriptive judgments on law, or judgments of type (2b)."
For more information, read Eerik Lagerspetz's "Hart and the Separation Thesis," ARSP: Archiv für Rechts- und Sozialphilosophie / Archives for Philosophy of Law and Social Philosophy, 1989, Vol. 75, No. 2 (1989), 241.is necessary for any legal system to operate. Law and morality may not necessarily need to be completely separated, even when moral and legal rules differ in the kind of sanctions they involve and the duties they impose [47]. A essential relationship between the two does not mean that all moral norms are legal rules; rather, it means that a law's legitimacy depends on its adherence to core moral precepts [48].
Law has the power to influence normative ideas and conduct, changing people's perceptions of how they and others should behave [49]. But this formative power also highlights the risk of morally repugnant behaviors being legitimized by the law [50]. Legal systems have approved of actions that are blatantly at odds with moral thought throughout history. For example, despite slavery's basic violation of human dignity, legal rules in many countries defended it.
Legal concepts like terra nullius and the "civilizing mission," which rejected the sovereignty and humanity of colonized peoples, especially in Africa [52], were also used to justify colonialism. More recently, legal defenses of foreign involvement in African nations have often concealed geopolitical objectives beneath the pretense of humanitarianism, posing grave ethical concerns about the abuse of legal power. These instances show that moral legitimacy is not always ensured by legality and that the law might be used as an instrument of injustice if it is not grounded in moral values [53].

46 Hart seems to be suggesting a middle ground between natural law and legal positivism: "The minimum content of law can be discovered or "derived" from the nature of man, and has been found to consist of "universally recognized principles of conduct" having a "basis in elementary truths concerning human beings, their natural environment, and aims." In contrast to his forebears, he argues that natural law may be proved to contain a "core of good sense" if it is "disentangled" from its entirely extravagant philosophical framework. For more information, see: S.B. Drury, "The Minimum Content Theory of Natural Law by H.L.A. Hart," Political Theory, Nov., 1981, Vol. 9, No. 4, page 535 (Nov., 1981).
47 Kaila Morin, "Bridging the Conceptual Gap Between Land and Morality: A Critical Response to H.L.A. Hart's The Concept of Law," UCL Journal of Law and Jurisprudence (2011), page 122.
48 Ibid.
49 "Law, Psychology, and Morality," by Kenworthy Bilz and Janice Nadler, Psychology of Learning and Motivation, Volume 50, (2009), page 103.
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50 Ibid.
51 Sookyeon Huh, "Title to Territory in the Post-Colonial Era: Original Title and Terra Nullius in the ICJ Judgments on Cases Concerning Ligitan/Sipadan (2001) and Pedra Branca (2008)," supra note 25 at 714.
52 Andrew Fitzmaurice, "The Genealogy of Terra Nullius," note 18 at 3.

53 "An illogical or unfair positive law is not considered a non-law in every respect by natural law. Instead, the natural law simply views such a positive rule as being legally flawed to the extent that it fails to establish an unqualified moral requirement of obedience. Otherwise, the positive law is not deprived by the natural law.
To put it another way, a properly formed and fair legal system cannot accept a legal norm that is substantively at conflict with basic moral principles [54]. In essence, people are more likely to follow laws that support their moral convictions. Legal systems that do not take morality into account run the danger of being seen as arbitrary, capricious, harsh, or unfair.

The moral philosophy of international law

The nature, foundations, legality, and normative authority of international legal standards are all critically examined by the field of international law philosophy, especially in light of the lack of a centralized global sovereign. Moral philosophy is essential to this paradigm, going from descriptive explanations of "what international law is" to normative investigations into "what international law ought to be." [55] It does this by consistently engaging with core ideas like equality, justice, fairness, and human rights.
As a result, morality is a fundamental and lasting part of the construction and functioning of international law [56]. Through ethical analysis and philosophical reasoning, morality offers an authoritative foundation for legal duty, assisting in the formation of principles that go beyond simple positivist formulations. The international legal system advances the goal of global justice, fortifies its claim to legitimacy, and fosters a normative order based on equality, human dignity, and respect between states and peoples by establishing moral principles as the foundation for legal standards.

(A) Philosophical and Ethical Dimensions of Law

International law has long been inspired by and based on moral philosophy, which offers the moral precepts that underpin ideas of justice, sovereignty, and human dignity. The philosophical foundations of international law are examined in this subsection, whereby the regulation of governments, persons, or legal entities is based on a common moral understanding of the human situation rather than just political expediency.
The goal of the philosophical approach to international law is to identify the moral and normative precepts that guide its creation, interpretation, and implementation [57]. This viewpoint challenges fundamental ideas like justice, legitimacy, sovereignty, and human rights by interacting with moral and political philosophy. It's

of its legal standing. However, legal positivist theories do not view moral obligation as a necessary component of legal obligation, even though they acknowledge that positive laws may occasionally be so unfair as to be morally repugnant and deserving of opposition. For further information, see Stephen Hall's "The Persistent Specter: Natural Law, International Order and the Limits of Legal Positivism," page 273.
54 Ibid.
55 "Ethics, Morals and International Law," European Journal of International Law, EJIL 10 (1999), page 282, Alexander Boldizar & Outi Korhonen. accessible at:
56 Covey T. Oliver, "International Law, Morality, and the National Interest: Comments for a New Journal," American University International Law Review 1, no. 1 (1986), pages 58–59.
57 Samantha Besson and John Tasioulas, "The Philosophy of International Law," Oxford University Press, 2010, pp. 1-2.
reveals the value-laden decisions ingrained in legal structures and questions presumptions about the impartiality of legal regulations.
Morality is fundamentally a collection of normative concepts that are used to differentiate between "good" and "bad" or "right" and "wrong." [58] It informs "value judgments" on matters of justice, fairness, responsibility, dignity, and respect for one another. Morality is prescriptive because, depending on the situation, it contains both explicit and implicit calls for action or moderation. Morality is not limited to any one area, even though it interacts with philosophy, religion, and the legal system [59]. Instead, it affects both individual conscience and societal norms [60].
Regarding the origins of morality, there are many different and sometimes conflicting perspectives. Most

religious groups claim that morality comes from holy books or a heavenly source [61]. For example, the "Ten Commandments" are considered fundamental moral principles in both Christianity and Judaism [62]. According to Islam, the "Qur'an" and the "Hadith" include morally obligatory rules that are comparable to the Ten Commandments [63]. Similarly, "Buddhism" and "Hinduism" are based on deep moral traditions that

58 "Moral judgments are assessments of the goodness or badness of a specific action, inaction, intention, motive, character trait, or individual based on a standard." Human behavior is assessed using predetermined criteria and determined to be either correct or wrong in this evaluation process. For more information, see John S. Ezenwankwor's "Law and Morality" supra note 31 at 18. "When we make a moral judgment, we are saying that, so far as we can see at the moment, the supreme standard indicates that such and such a line of action is the one which ought to be taken."

59 John T. Richardson, "Religion, Morality, and Law," RELIGION, MORALITY, AND LAW (Volume III, Southern Methodist University Studies in Jurisprudence), edited by Arthur L. Harding. Dallas, Texas: Southern Methodist University Press, 1956. Pages 93–94.

60 Ibid.

61 "The definitions and meanings of religion and morality (ethics) have no close affinity or similarity, both from the etymological definition and their frequent usage." Both have distinct value systems; religion is founded on faith, while morality is based on reason. Isidore and St. Augustine employed the Latin root terms religio, reeligere, and religare, which St. Thomas Aquinas suggests as the etymology of the word religion. For further information, see Emmanuel Kelechi Iwuagwu, "The Relationship Between Religion and Morality: On Whether The Multiplicity of Religious Denominations Have Impacted Positively on Social-Ethical Behavior," Global Journal of Arts, Humanities and Social Sciences Vol.6, No.9, September (2018), pages 42–43. According to Isidore, "a man is said to be religious from religio, because he frequently ponders over and, in a sense, read again (relegit) the things related to the worship of God.

62 Ibid. 51 years old

63 "The character or manners that a person develops, becoming an integral part of his natural disposition, are referred to as khuluq in Arabic." excellent manners may be a gift from Allah, the Almighty, in which a person is born with both excellent manners and a high level of intelligence, as was the case with the Prophets. For more information, read Yassin Roushdy's "Ethics and Morals of Islam," translated by Soaad Mahmoud Naguib, page 3. Alternatively, excellent manners may be developed by trying and competing with oneself to be decorated with great moral excellences.

by the concepts of compassion [66], "karma," and "dharma" [64, 65]. In many traditions, morality is seen as a divine or spiritual need necessary for human development rather than just a set of rules.

Morality is seen as a central issue of ethical theory from a philosophical perspective. Reason, critical thought, and debate are used to investigate it. Philosophical ethics is dominated by many main theories, such as "deontological ethics," [67], "utilitarianism," [68], and "virtue ethics." [69] Deontological ethics evaluates the 64 "Dharma is a philosophy that encompasses both morality and ethics." It is the idea that pleasure and well-being result from leading a life that is consistent with one's Dharma. The path to freedom is truth, or dharma. That is the foundation of a devout life. Spiritual discipline and a moral code are among its guiding principles. Dharma is everything that keeps religious communities together, prevents turmoil, and prevents individuals from acting in an unwanted or unpleasant way. Dharma is a fundamental concept in many Indian religions, among other things. Although some contend that the word "dharma" cannot be translated into English or any other European language, it often refers to deeds that promote life by upholding "order and custom" (sometimes called "virtue" or "religious and moral duties"). Adharma is the reverse of adharma (page 204).

65 "Karma is the source of action; it is an impression that both starts and decides how an action turns out." There are several types of karma based on the temporal characteristics of an action, the morality of that behavior, and the karma of individuals, families, countries, and groups of creatures. Depending on your ideals, karma may be either beneficial or detrimental. Every action that hurts oneself or others is considered to be evil or negative karma and will have a proportional impact on one's soul. Similarly, you get positive karma by performing nice things for other people. However, it is believed that karma has a time limit and might last beyond a lifetime. Karma is truly believed to be the cause of birth and death for individuals who have not reached enlightenment (Ibid at 205).

66 Ibid.
67 "The Greek words for obligation (deon) and science (or study) of (logos) are the source of the term deontology. Deontology is one kind of normative theory in modern moral philosophy that addresses what decisions are ethically demanded, prohibited, or allowed. In other words, unlike virtue theories, deontology belongs to the category of moral theories that direct and evaluate our decisions about what we should do (Deontic theories). For further information, see: L. "Immanuel Kant's Deontology Theory," Udayakumar & Sunder Singh Babu, International Journal of Research and Analytical Reviews, Volume 8, Issue 2 (2021), page 235. Accessible via: https://www.ijrar.org/papers/21B2505_252105.pdf
68 "The ethical theory of utilitarianism was first methodically formulated in England in the late eighteenth century. According to utilitarianism, a course of action is justified if it improves welfare. (Wellbeing is what you have if your life is going well.) When determining what is morally correct to do, you should do what maximizes wellbeing since no one's wellbeing is more important than anybody else's. Utilitarianism may be seen as the synthesis of two concepts, consequentialism and welfarism (there are several forms of utilitarianism that disagree with that definition in different ways, which we'll examine later). Welfarism holds that the only thing that counts morally in the end is welfare, whereas consequentialism holds that an action is good to the extent that it has the optimal outcomes. For further information, see Nicholas Drake's "Utilitarianism," Penultimate draft of chapter in "Ethical Theory in Global Perspective," edited by Michael Hemmingson, SUNY Press, (2024), page 1. Utilitarians believe that you should act in a way that has the best consequences and that the kind of consequences that matter are promoting wellbeing.
69 "The curriculum of International Relations (IR) and the practice of international politics have not given much attention to virtue ethics (VE), a method of thinking about how to conduct properly. The prevailing methods of international ethics concentrate on the identifying
morality of behavior based on predetermined guidelines or standards rather than outcomes. Utilitarianism, on the other hand, emphasizes maximizing pleasure or utility for the largest number of people and evaluates the moral worth of deeds depending on their results [70].
Ethics and morality are closely related; morality refers to the more general rules of good and evil that guide human behavior. The methodical investigation and implementation of such values in particular situations is known as ethics [71]. Ethics serves as a formalized extension of moral principles in the legal profession, directing practitioners' actions beyond simple adherence to the law [72]. Attorneys must uphold moral principles including loyalty, diligence, honesty, and secrecy [73]. These obligations reflect deeper moral imperatives that are crucial to justice, fairness, and public trust, not only because the law requires them [74]. Therefore, the legal profession serves as an example of how moral reasoning-based ethical standards are essential to preserving the integrity of legal institutions [75].
Although utilitarianism encourages the welfare of the group, it may be morally problematic when people's rights and dignity are compromised for the good of the group as a whole. In contrast, virtue ethics places more emphasis on developing moral character and virtues like integrity, honesty, and empathy than it does on strictly adhering to rules or developing moral obligations (deontological approaches) or, to a lesser extent, the results of actions (consequentialist approaches). In contrast, virtue ethics emphasizes the significance of moral character, particularly the possession of some combination of "virtues," such as practical wisdom, in determining right action. It defines right action in terms of concrete conceptions of the good, or human flourishing. For further information, see Kirsetn Ainley's "Virtue Ethics," which was first published in the Oxford Research Encyclopedia of International Studies. The International Studies Association and Oxford University Press, 2017, page 1.
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70 Nicholas Drake, "Utilitarianism," supra, note 68 at 1.
71 "The word ethics is derived from the Greek word ethos, which means character, while the word moral is derived from the Latin word moralis, which means custom or manner. Moral refers to an individual's personal stance, principles, and values of what is right and wrong, whereas ethics refers to rules, principles, norms, and values that are external to the individual, such as the norms and values of a social community, occupational codes of conduct, religious principles, etc." For additional information, see Goran Fransson's "Understanding Morality and Ethics: Maneuvering Ethical Dilemmas in Digital Educational Contexts," Chapter 4, University of Gavle, Sweden, Teacher Education for Ethical Professional Practice in the 21st Century, 01 Jan 2017, Vol. 5, page 2. Accessible at: https://www.diva-

portal.org/smash/get/diva2:1038976/FULLTEXT01.pdf
72 Haxhi Xhemajli, "The Role of Ethics and Morality in Law: Similarities and Differences," Ohio Northern University Law Review, pages 81–82.
73 Ibid. 89 years old
74 Ibid. 82 years old
75 "Lawyers must stay within the confines of the law while zealously defending their clients' interests. To put it another way, a lawyer's job is to make the law operate fairly and justly for their client. The need to uphold the integrity and spirit of the law, which helps to guaranty that decisions are made on the basis of substantive merits rather than just formal or procedural reasons, tempers the obligations of advocacy (Ibid at 90).
assessment [76]. In legal settings, virtue ethics emphasizes the moral character of legal practitioners. The normative framework that establishes the obligations and roles of legal professionals in private practice, litigation, and the bench is known as "legal ethics" [77].
Unquestionably, ethical responsibilities are central to the legal profession rather than incidental, reflecting a deeper moral dimension that goes beyond codified rules [78]. This is demonstrated by the profession's longstanding dedication to "pro bono" service, in which attorneys act out of empathy and justice rather than out of obligation, confirming the law's larger social purpose [79]. Moral judgment is a necessary component of judicial decision-making in contemporary constitutional democracies [80]. Statutes and constitutions are examples of legal writings that are seldom comprehensive, creating interpretation gaps that call for normative reasoning. Legal norms like due process, especially in common law regimes, have intrinsic moral value, and conflicts between basic rights sometimes pose unsolvable moral conundrums [81]. These facts highlight the philosophical aspect of decision-making: judges are routinely asked to consider issues of justice, fairness, and moral reasoning in addition to technical legality [82]. This poses a crucial jurisprudential question: to what degree should judges be limited in their ability to make moral decisions?
Religious beliefs were often used to defend slavery, especially in Christian and Islamic cultures. Scriptures like the "Curse of Ham"
[83] were taken to imply that certain racial groups were 76 "Virtue ethics and is organized around the work of the philosophers who initially spearheaded the revival of interest in virtue ethics in modern moral philosophy." Dissatisfaction with the then-available alternative normative theories—deontology and consequentialism—as well as a realization that something important was absent from the discussion are characteristics of this phase of thought. The main claims of virtue ethics emerged from articulating this sense of what was lacking, of a different approach one should take when considering moral matters, of a change in direction in the debates dominating moral theory (see Nafsika Athanassoulis, "Virtue Ethics," Bloomsbury Ethics Series, 6 Dec (2010), page 4). The URL is https://philarchive.org/archive/ATHVE-3.
77 Lydia Achode, "Judicial Ethics: A Fundamental Principle of Legal Ethics," Strathmore Law Journal, Vol. 6, Page 258, Issue 1, 2022. The following link is accessible: https://journal.strathmore.edu/index.php/law/article/view/183/213
78 Ibid.
79 "It is the responsibility of attorneys to advance justice, the rule of law, and public confidence in the judicial system. To preserve the prestige of the profession, they must keep the highest ethical standards, take part in legal education and reform initiatives, and provide pro bono work. Professional responsibility is essentially the code of ethics that directs attorneys in their capacities as court officials, consultants, and advocates. For more information, see Jingwei Xu & Zhengmin Li & Siyu Li, "Legal Ethics and Professional Responsibility in the Legal Profession," SHS Web Conference 190, 02006 (204), page 204. It is a fundamental pillar of the legal profession, encouraging accountability and guaranteeing that lawyers contribute to the pursuit of justice and the improvement of society as a whole.
Two.
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80 Susanna Mancini and Michael Rosenfeld, "The Judge as Moral Arbiter: The Aboration Case," page 3.
81 Ibid.
82 Ibid.
83 In Race: The History of an Idea in America, Thomas Gossett said that two narratives he discovered in

the Jewish Encyclopedia were divinely predestined for slavery, offering a theological basis for the enslavement of Africans and indigenous peoples [84]. By using scripture and portraying slavery as a component of a divine order, enslavers asserted their moral authority. Slavery was further institutionalized when some interpretations of Islamic law allowed it under certain circumstances, which were often connected to war or non-Muslim populations [85].

These theological justifications were used as a weapon to portray slavery as both ethically and spiritually acceptable, while being disputed even within their own traditions. Slavery was also philosophically justified by natural law theory, particularly in its Aristotelian version [86]. Aristotle's belief that some people were "slaves by

(1904), depict the origin of black skin as a curse of God, demonstrating “the most famous example of racism among Jews.” Anthropologist Raphael Patai and novelist Robert Graves published Hebrew Myths: The Book of Genesis, which contains a selection of rabbinic expositions on and about the Genesis myths. The authors tendentiously created (it is their own creation) a picture of Noah cursing his grandson Canaan and his descendants by giving them black skin, negroid features, eternal slavery, hatredness, and a love of theft, fornication, and lying.

84 Ibid.

85 “Slavery, includ- ing chattel slavery, was permitted by the Holy Quran and further defined in the Hadith (traditions of the Prophet Mohammed's lifetime). It became codified in the Shari'a (sacred) law codes administered by members of the Ulama (those learned in its inter- pretation). In general, its concept of slavery followed the practice of the Roman Empire and its predecessors in Western Asia (Snowden 1970), the main difference being that, in the Dar el Islam, Christianity and Judaism were accepted as permissible if incomplete religions. Believers in them, if they made their (non-religious) submission to Islamic rulers, paid the required taxes and accepted Shari'a law, were citizens (Dhimi) and not subject to chattel slavery unless condemned to it for crimes carrying that punishment under Shari'a law in the same way as Muslims were.” For more see: J. Alexander “Islam, Archaeology and Slavery in Africa,” World Archaeology, Jun., 2001, Vol. 33, No. 1, The Archaeology of Slavery (Jun., 2001), page 45.

86 “But as Aristotle develops his civic "organism," he makes a commitment that repels modern readers, for among the relationships that contribute to the formation of the household from mere individuals, Aristotle lists that of natural master to natural slave.” Although he considers the view that slavery is simply a matter of convention, he rejects it, holding that there are humans who are marked out as slaves from birth. In defense of this view, Aristotle offers a number of characterizations of the natural slave, some of which are psychological, such as "the natural slave is rightly considered a part of his master’s body.”

Later theorists who contended that certain races or peoples were naturally fitted for subjection were inspired by "nature" [87]. Early modern European colonialism gave this concept a fresh lease of life, since colonists saw non-Europeans as naturally subservient because they lacked reason.

Francisco de Vitoria contended that "indigenous peoples" had intrinsic rights and sovereignty, which partially undermined the validity of colonial invasion [88]. These claims, which emphasized the dignity of all people, were firmly based in natural law [89]. The moral and legal legitimacy of European dominance over so-called "savage" regions was at the core of the fundamental discussions in early international legal theory [90]. Francisco de Vitoria, on the other hand, developed a legal system that attempted to justify Spanish colonization of the Americas by incorporating these arguments into more general legal and philosophical theories pertaining to theology and religion [91].

These early justifications were later reexpressed throughout time, giving rise to contemporary legal doctrines and ideas like international trusteeship, humanitarian intervention, and the current discourses of development, good governance, and democratic transformation [92]. A hierarchical ordering of rules that distinguished between rightful authority and illegal opposition developed within this legal framework. As a result, indigenous resistance to colonial control was made illegal by the legal system, making it illegitimate under the current international legal system [93].

The philosophical underpinnings that formerly supported such practices endure, even if the explicitly violent methods of eradicating indigenous land rights—such as via civilizing missions or forced labor—are no longer ethically or legally acceptable by today's standards. The development of contemporary international law is heavily influenced by ideas like "terra nullius" and the "doctrine of discovery" [94]. Due to their historical denial of sovereignty and reductive framing as "groups" or "tribes," indigenous

communities were essentially denied the protections provided by international law to recognized nation-states and their citizens [95]. Indigenous peoples were considered as objects inside the international legal order—entities to be controlled, regulated, or erased—instead of individuals with agency, rights, and moral value in this legal omission [96]. This ontological demotion presented a serious moral dilemma: indigenous peoples' basic humanity was implicitly rejected if the universality of human rights did not apply to them.
In addition to depriving them of legal personhood, this exclusion raised questions about their moral standing in the eyes of global legal awareness. Slavery was justified as a necessary tool to increase production, wealth, and social growth, especially in plantation economies, according to economic utilitarianism, which offered a secular justification [97]. A perverted interpretation of the utilitarian notion of "the greatest good for the greatest number" was in line with the minimization or disregard of enslaved people's suffering in favor of larger economic profits [98].
When combined, these frameworks offered a strong but seriously defective moral and legal framework that allowed centuries of racial injustice and exploitation to continue under the pretense of legality. Legalizing slavery and other forms of oppression does not give them moral legitimacy; rather, it highlights the perilous gap that may exist between justice and the law [99]. Legality is not a gage of what is morally correct. Laws designed to promote the interests of dominating forces, often at the price of basic human dignity, were used by systems that allowed slavery, colonial dispossession, and racial servitude. Such behaviors are nonetheless immoral even if they were included in legal rules. Slavery is morally a grave breach of equality, autonomy, and

87 "Aristotle's assertion that natural slaves lack autonomous rationality." See Malcom Heath, "Aristotle on Natural Slavery," Phronesis, 2008, Vol. 53, No. 3 (2008), page 243. 88 "The jurisprudential foundation of peoples' rights is a direct challenge to positivist and neo-positivist conceptions of international law as reliant on state practice and recognition. In this sense, the rights of peoples may be linked to pre-positivist ideas of natural law, which were raised by Victoria (sic) and others at the beginning of international law in support of Indians who were being brutally mistreated by the Spanish conquistadors. G.C. Marks, "Indigenous Peoples in International Law: The Significance of Franciso De Vitoria and Bartolome De Las Casas," Indigenous Peoples in International Law, Australian Year Book of International Law, (1998), page 7.
89 Ibid.
90 Robert A. Williams, Jr., "SAVAGE ANXIETIES: The Invention of Western Civilization," pages 1–9, Palgrave MacMillan (2012).
91 Elen Cirkovic, "Indigenous Peoples and Self-Determination in International Law," American Indian Law Review, 2006/2007, Vol. 31, No. 2, page 380.
92 Ibid.
93 Ibid.
94 “[The] doctrine of community of civilized nations, which excluded non-European communities, was regarded as the foundation of international law, but it was founded on a false premise. The notion of terra nullius and the idea of civilized countries were employed, particularly in Australia, to defend the occupancy of Aboriginal territory. For further information, read Dieter Dorr's "The Background of the Theory of Discovery," American Indian Law Review, 2013-2014, Vol. 38, No. 2 (2013–2014), page 486.
95 Elen Cirkovic, "Indigenous Peoples and Self-Determination in International Law," supra note 91 at 381.
96 Ibid.
97 "Thomas Cooper's contribution to Southern philosophy implies that historians have overlooked the variety of perspectives Southerners used to defend their unique institution. In essence, Cooper's application of utilitarianism and Jeremy Bentham's ideas is more intriguing for what it implies about the caliber and diversity of the southern intellect than for what it adds to the pro-slavery argument. For further information, see Daniel Kilbride, "Slavery and Utilitarianism: Thomas Cooper and the Mind of the Old South," The Journal of Southern History, Vol. 59, No. 3, page 469 (Aug., 1993).
98 Ibid, 469-470.
99 Ibid at 474.
the intrinsic value of each and every person [100]. The systematic dehumanization and monetization of persons cannot be justified by any legal framework, independent of historical background or social agreement [101]. This glaring moral failing highlights the need to base the law on universal ethical values,

such respect for human rights, rather than letting it be used as a weapon of dominance.
However, from a philosophical perspective, "ideologies" like "apartheid" in South Africa were essentially immoral [102]. Apartheid transgressed fundamental values of justice, equality, and human decency; [103]. principles supported by both contemporary moral philosophy and natural law. Apartheid, which was based on a system of racial segregation and oppression, denied Black South Africans fundamental freedoms and rights based only on their race, treating them as intrinsically inferior [104].
Apartheid continued under international law until the early 1990s, despite its moral indefensibility. Geopolitical interests and the unwillingness of strong governments to get in may be partially blamed for this [105]. Even following its
100 Elisa Massimo, "The Power of Human Rights Law," Human Rights, Vol.41, No. 2 (2015), pages 2-3.
101 Ibid.
102 "Since 1948, the South African government's policy of apartheid—literally, apartness—has been one of the most well-known racial policies in the world, despite the fact that its exact nature has caused some confusion, misunderstandings, and intense controversy both inside and outside the Union. Government officials, Afrikaner intellectuals, Dutch Reformed Church ministers, and theologians who support it argue that it is the only fair way to address South Africa's basic issues with a white population that has been there for three centuries and is outnumbered by non-whites in a 4:1 ratio. The only long-term solution, according to these proponents of apartheid, is for the two main racial groups—Europeans and Bantu—to flourish independently. For more information, see Edward A. Tiryakian's "Apartheid and Politics in South Africa," The Journal of Politics, Nov., 1960, Vol. The policy's detractors view it as either intended to uphold white supremacy and the political-economic subjugation of non-whites, or as a policy that, if fully implemented, will result in the Union's economic collapse. 22, No. 4 (November 1960) 82,
page 6. 103 Chapter 16, "Apartheid," page 248 of Farhad Malekian's "Principles of Islamic International Criminal Law: A Comparative Search"
105 E.S. Reddy, "Apartheid and the International Community," Autumn 1974, A Journal of Opinion, Vol. 4, No. 3 (Autumn, 1974), 19-
20.
Despite formal deconstruction, elements of its systemic structure still permit moral and legal transgressions, which show up as persistent economic inequality, institutional discrimination, and restricted access to justice for a large number of Black South Africans.
[106].
Such instances create a basic ethical dilemma, whereby the legitimacy of a legal system based on universal dignity is compromised by its selective acknowledgment of who is fully human. Regarding the transformational potential of international law and its role in upholding or contesting historical patterns of dominance, this continuity poses basic moral and philosophical questions. Throughout history, people have often used warped ethical reasons to justify actions that are inherently immoral in order to further their own self-interested or ideological goals. Slavery, colonial dominance, apartheid, and systematic discrimination—practices that were justified at the time as moral or civilizing imperatives—have all been codified into laws [107]. Societies have frequently turned political or personal agendas into accepted legal frameworks by disguising exploitation and injustice under the pretext of moral obligation or legal necessity. This shows how morality, when applied selectively, can be used as a weapon to legitimize oppression rather than stop it.

(B) Jurisprudence and the International Legal Framework

With a strong focus on the moral foundations of legal systems, this subsection offers a juridical analysis of the international legal system. especially when it comes to international law, which lacks a supreme sovereign authority. It acknowledges that the authority and validity of international legal standards often depend on their conformity to core moral values like justice, human rights, and the common good rather than only on enforcement methods [108].
The view that law without morality runs the danger of becoming merely coercion or political convenience is reinforced by jurisprudence, particularly that which is based on natural law theory, which asserts that international law gets its normative validity from its potential to represent universal ethical principles. Using ideas from legal positivism, natural law, and critical legal studies, the jurisprudential method

investigates the nature, origins, and validity of international legal standards. This viewpoint is crucial for answering persistent queries on the state of

2Fbasic_search_gsv2%2Fcontrol&initiator=search-results&acceptTC=1
106 Rajen Harshe, "Understanding Transition toward Post-Apartheid South Africa," Economic and Political Weekly, September 18, 1993, Vol. 28, No. 38 (September 18, 1993), pages 1980-1981. 107 Robert J. Miller, "The International Law of Colonialism: The Doctrine of Discovery," The Indigenous Peoples' Journal of Law, Culture, & Resistance, 2019, Vol.5 (2019) 35–36.
108 L.S. Woolf, "International Morality," pages 11–12.
The definition of state duty, international law as a legal system, and the relationship between morality, power, and law on a worldwide scale.
It is sometimes claimed that governments follow international legal rules out of a feeling of moral duty when applied to the sphere of international law, where states are the main players [109]. Both political philosophy and normative jurisprudence support this claim. For instance, proponents of natural law theory contend that moral precepts ingrained in human nature are the source of law. According to Thomas Aquinas, governments are answerable to a higher moral order, fair laws must be based on morality [110].
Hugo Grotius, who is considered a founding figure in international law, claimed that reason requires certain moral responsibilities between nations even in the absence of supernatural authority [111]. In a similar vein, Immanuel Kant's concept of the "kingdom of ends" [112]. believed that a moral community of states, guided by the categorical imperative and the dictates of reason, would live with dignity and respect for one another [113]. The moral foundation of the international legal system is strengthened by this viewpoint.
Practically speaking, international legal documents like treaties and conventions represent moral obligations that go beyond simple political expediency. the fundamental tenet of "pacta sunt servanda" [114]. that commitments must be honored; represents fundamental moral principles like loyalty, reliability, and good
109 "Is It Possible for a State to Have Duties?See Rhetoric, Morality, and International Law, pages 185–186, for further information.
110 Stephen Pope, "Reason and Natural Law," page 150, Chapter 9.
111 Charles Edwards, "The Law of Nature in the Thought of Hugo Gortius," Law of Nature in Grotius (1970), pages 784-785.
112 Edward Demenchonok, "Learning from Kant: On Freedom," Revista Portuguesa de Filosofia, T. 75, Fasc. 1. Contemporary Politics and Ethics: Kantian Resonances (2019), 199-200.
113 "The original formulation of the categorical imperative, 'act only on that maxim through which y concomitantly' will that it should become a universal law,' is the most well-known principle in moral philosophy." For additional information, see Patricia Kitcher's "Kant's Argument for the Categorical Imperative," Noûs, Dec., 2004, Vol. 38, No. 4, page 555 (Dec., 2004). 114 "As part of the pacta sunt servanda principle, the principle of good faith binds subjects of international law to identify in good faith the actual circumstances and interest of states within the scope of a rule; to select the applicable rule or rules in good faith; to ensure that the application of rules is truly compatible with their letter and spirit, as well as with concepts of international law and morality and other obligations of the subjects." For further information, see: I. I. Lukashuk, "The American Journal of International Law," Vol. 83, No. 3 (July 1989), pages 517.
faith, which are necessary for treaty law to be stable and legitimate [115]. This idea is consistent with Kantian moral theory, which maintains that respect for other people's autonomy and vows is a categorical imperative.
In a similar vein, the evolution of customary international law (CIL) demonstrates the nuanced interaction between moral expectation and legal duty. In addition to consistent and widespread governmental practice, CIL also arises from "opinio juris," or the conviction that such behavior is carried out out of a feeling of legal obligation [116, 117]. However, opinio juris does not necessarily draw a distinct line between moral and legal responsibility, which permits moral standards and ethical reasoning to have an impact on the creation and interpretation of international legal responsibilities. In this sense, international law functions as a mirror of common moral understandings that develop via both legal discourse and global conscience, rather than just as a set of rules [118].

Furthermore, moral beliefs must be included into international law due to the ideals of justice and humanity. For example, certain laws, including those that forbid slavery, torture, genocide, and crimes against humanity, have attained the status of "jus cogens" [119], which means that all governments must abide by them. These

115 Ibid.

116 "State practice and opiniojuris are generally regarded as the two components of custom. State practice refers to the general and consistent practice by states, whereas opinion juris indicates that the practice is carried out out of a belief of legal obligation.6 This distinction is problematic because it is difficult to determine what states believe as opposed to what they say. For further information, read Anthea Elizabeth Robert's article "Traditional and Modern Approaches to Customary International Law: A Reconciliation," The American Journal of International Law, Oct., 2001, Vol. 95, No. 4 (October 2001), page 757.

117 "We may focus on two issues while discussing the function of opinio juris. The first concerns the function of opinio juris in the process of making laws (i.e., whether it is constitutive or declaratory of the law). The second relates to its function in qualifying State practice in the sense of differentiating between acts that are legally relevant and those that are not; it is crucial to distinguish between practice that is deemed legal on the one hand, and practice that is based on civility, morality, or fairness on the other. States' recognition of the legal quality of practice (i.e., opinion juris) is thought to be the touchstone of this distinction.

118 Ibid at 502–503.

119 "International crimes that qualify as jus cogens are inderogable obligatio erga omnes." The duty to prosecute or extradite, the inapplicability of statutes of limitations for such crimes, the inapplicability of any immunities up to and including Heads of State, the inapplicability of the defense of "obedience to superior orders" (apart from as a mitigation of sentence), the universal application of these obligations whether in times of peace or war, the non-derogation under "states of emergency," and the universal jurisdiction over perpetrators of such crimes. "International Crimes: Jus Cogens and Obligatio Era Omnes," by Cherif Bassiouni, Law and Contemporary Problems, Autumn, 1996, Vol. 59, No. 4, Serious Violations of Fundamental Human Rights and International Crime (Autumn, 1996), page 63.

Universal moral imperatives that go beyond governmental permission are reflected in norms [120]. From a complementary standpoint, broad treaty acceptance may solidify new practices into customary international law, while treaties often help to codify pre-existing customary norms [121].

As a recognized source of law under the Statute of the International Court of Justice ("ICJ"), the "principles of international law" [122] include moral standards that direct human behavior [123] in addition to formal regulations. Such principles' validity often depends on how well they represent common moral norms that are acknowledged and embraced by the global society [124]. Treaties, customary law, and general principles are often used by international courts and tribunals when interpreting and applying international law.

The works of eminent jurists emphasize the moral aspect even though they are often considered a secondary source.

because they provide philosophical and legal reasoning that enhances the creation, interpretation, and implementation of legal standards, rather than because they are legally binding in and of themselves [126]. They enhance comprehension of the normative underpinnings of international law by offering conceptual clarity and interdisciplinary insight [127].

The "Peace Treaty of Westphalia (1648)," is primarily responsible for the contemporary idea of sovereignty in international law.

The "Thirty Years War" came to a conclusion [128] [129].

The idea that states have ultimate power inside their borders was established by this treaty [130]. Non-intervention, territorial integrity, and legal equality among states were all incorporated in this Westphalian paradigm [131]. Additionally, the treaty established international legal personality, which acknowledges nations as the principal subjects of international law with rights and duties [132].

of international law [125]. These works have an impact not

little direction on this issue. In contrast to the other three legal sources, the

120 Mysore G. Narasimhaswamy, "Jus Cogens and International Law," Journal of the Indian Law Institute,

July-September 1972, Vol. "A treaty is void if it conflicts with a peremptory norm of international law from which no derogation is permitted and which can only be modified by a subsequent norm of general international law having the same character." 14, No. 3, page 341 (July-September 1972).
121 "The significance of general principles of law in the source of international law has been debated in both local and international scholarly circles since Article 38(1) of the Statute of the International Court of Justice requires basic principles of law. There are primarily three perspectives. According to the first perspective, general principles are not sources of international law. The first perspective, which maintains that a concept of law is both a separate source of international law and a part of natural law, is entirely at odds with the second. For further information, see Yu Lu's "Analysis of the General Principles of Law Article 38 of the Statute of the International Court of Justice," Beijing Law Review, 2022, 13, page 787. According to the third perspective, the general principle of law is an independent source of international law, but it is positive law.
122 The International Court of Justice was likewise founded in the aftermath of war, as part of global initiatives for a better future. However, its intellectual roots may also be found in the early twentieth-century war clouds. The world's most powerful countries were invited to an international peace conference held by the Russian Czar in 1907. The creation of a "Peace Palace" with an arbitral court and an exceptional library of international law was one of the eight points that the Hague Peace Conference agreed upon. Rosalyn Higgins, "The ICJ, the ECJ, and the Integrity of International Law," The International and Comparative Law Quarterly, Jan., 2003, Vol. 52, No. 1 (January 2003), pp.
Two.
123 Howard S. Schrader, "American Federal Courts' Use of Custom and General Principles as Sources of International Law," Columbia Law Review, May 1982, Vol. 82, No. 4, page 771 (May, 1982).
125 The International Court of Justice (ICJ) is required to consider "the teachings of the most highly-qualified publicists of the various nations" in addition to the three main sources of international law when resolving disputes between states. However, the definition of "most highly qualified" is not stated in the Statute, and the travaux–paratoires provide
According to Michael Peil, "Scholarly Writings as Source of Law: A Survey of the Use of Doctrine by the International Court of Justice," Cambridge Journal of International and Comparative Law (1)3: 136-161 (2012), pages 136-137, courts may only use publicists' teachings "as subsidiary means for the determination of rules of law."
126 "Juristic writings, comprising scholarly analyzes and interpretations of legal principles, theories, and concepts, serve as essential tools in the realm of law.1 Usually written by legal scholars, jurists, and academics, these writings come in a variety of forms, including books, articles, essays, treatises, commentaries, and legal opinions, serving several crucial functions within the field of law. They give legal commentary that helps clarify fundamental legal concepts by providing insights into current legislation, court decisions, and precedents. For additional information, visit Sayed Qudrat Hashimy & M.S. Benjamin, "Catalyzing Legal Systems: The Crucial Role of Jurist Writing," VBCL Law Review (2023), p. 298.
127 Ibid.
128 "Europe received an international constitution from the Treaties of Münster and Osnabrück, which served as the foundation for its public law until the French Revolution." However, it would be a grave mistake to believe that the international community of states as revealed to the world by the Peace of Westphalia meant the acceptance of the science of international law as now understood and applied by the international community. The current state of the science of international law is the outcome of two primary reasons, namely the sluggish historical progress. worldwide practice or custom on the one hand, and specific ideas or principles on the other. For more information, see Amos S. Hershey's "history of international law since the Peace of Westphalia," The American Journal of International Law, Vol. 6, No. 1 (January 1912), page 30.accessible at https://www.jstor.org/stable/pdf/2187396.pdf?refreqid=fastly-default%3Add8eb1a4ac75cdc3a5bed2d8edd620fa&ab_segments=0%2
Fbasic_search_gsv2%2Fcontrol&initiator=search-results&acceptTC=1 129 Ove Bring "The Westphalian Peace Tradition in International Law: From Jus ad Bellum to Jus contra Bellum," International Law Studies, Vol. 75, International Law Throughout the Conflict Spectrum, page 57-
59.
130 According to Ibid at 58, "moreover, in a longer-term perspective, the peace contributed to the

emergence of the modern international system of territorial and sovereign States, where actors were (and are) maximizing their own State interests while at the same time striving for a balance of power."
131 Amos S. Hershey, "International Law Since the Peace of Westphalia," supra, note 128 at 43.
132 Derek Croxton, "The Origins of Sovereignty and the Peace of Westphalia of 1648," International History Review, September 1999, Vol.
It established the relationships between sovereign entities as the primary focus of the developing legal system and solidified the state-centric structure of international law [133]. But this idea of sovereignty was fundamentally Eurocentric, based on the political reality of European Christendom, and it disregarded or devalued other political structures [134]. Under this concept, complex imperial or dynastic institutions in Asia, indigenous government systems in the Americas, and customary law systems across Africa were not acknowledged as sovereign [135].
These non-European entities were thus denied international legal status, making them legally invisible and susceptible to eviction, annexation, and colonization [136]. As a result, the Westphalian idea not only influenced the structure of contemporary international law but also established a worldwide hierarchy that denied legal protection and legitimacy to large swaths of the globe [137]. Despite its idealistic claims to impartiality and universality, international law has traditionally served as a tool of "victors' justice" [138]. promoting the interests of powerful international nations above the fair administration of justice [139].
The aftermath of significant wars significantly influenced the structure of the international legal system. especially by the victorious Allied countries, who used organizations like the United Nations Security Council, which has five permanent members, to establish their supremacy.

21, No. 3 (September 1999), pages 569–570. 133 Ibid.
134 "The discussion of what standards and values ought to govern the interaction between native peoples and colonists gave rise to international law. Only subsequently did international law develop into a framework centered on territorial integrity, exclusive jurisdiction, state sovereignty, and non-intervention in internal matters. For further information, see Greg Marks' article "Sovereign States vs. Peoples: Indigenous Rights and The Origins of International Law," Australian Indigenous Law Reporter, June 2000, Vol. 15. The state-centered system of international law came to deny that individuals, indigenous societies, and even those nations deemed not sufficiently "civilized"15 could be subject to international law or have rights under such law. 5, No. 2 (June 2000), page
Third.
135 "The non-recognition of the sovereignty of the peoples of Americas, Africa, and Asia is common to the signatories [of the Westphalian Treaty, which were Europeans]." For further information, see Kwame Nimako's "Lost and Found: Sovereignties and State Formations in Africa and Asia," 2. 136 Ibid.
137 Greg Marks, "Indigenous Rights and the Origins of International Law: Sovereign States vs. Peoples," supra note 134 at 3.
138 "More fundamental objections to the concept of punishing war crimes sometimes appeal to the idea that such penalties simply represent "victors justice" rather than true justice." See Bill Wringe's article, "Why Punish War Crimes? Victor's Justice and Expressive Rationale for Penalties, Law and Philosophy, March 2006, Vol. 25, No. 2, 164 (Mar., 2006).
139 Ibid.
possess veto power [140] These powers, many of which rose to international prominence via economic enslavement, military aggression, and colonial invasion, did not ascend by moral virtue but rather by imperial control.
For example, "The Nuremberg Trials" [141] are often credited with giving rise to contemporary international criminal law [142]. Despite their importance, the trials solely prosecuted the Axis nations for crimes of aggression. Unfairly, comparable acts by the Allies, such the atomic bombings of Hiroshima and Nagasaki [143] or the horrors of colonialism carried out across Africa [144], were disregarded. In many cases, Western powers either disregard, distort, or selectively apply legal rules to suit their strategic goals, demonstrating the double standards ingrained in the implementation of international law.
The 2003 invasion of Iraq by the United States and the United Kingdom was a blatant violation of international law since it was carried out without the UN Security Council's express approval and was based on fictitious allegations of WMD [145]. However, there was no real judicial responsibility that

followed. In a similar vein, Israel's extended occupation and settlement growth in the Palestinian territories are prohibited by

140 Michael Hatuel Radoshitzky, "UN Security Council Veto Mechanism Criticism: Consequences for Israel," INSS Insight No. 765. Pages 1-2.
141 “[The] major war criminals Goering, Hess, von Ribbentrop, and others were sentenced by an international military tribunal in Nuremberg for specific crimes or groups of crimes that had been formulated prior to the trial in a charter signed in August 1945 by the representatives of the United States, France, Britain, and Russia. Three main categories of delinquency—crimes against humanity, war crimes, and crimes against peace—were established in the Charter of the International Military Tribunal, which was accepted in London. Hans Leonhardt, "The Nuremberg Trial: A Legal Analysis," The Review of Politics, Oct., 1949, Vol. 11, No. 4 (October 1949), page 499.
142 From: Harvard Law Review Association, "International Criminal Law: Developments in the Law," Harvard Law Review, May 2001, Vol. 114, No. 7 (May 2001), page 1951.
143 William A. Schaba, "Victor's Justice: Choosing "Situation" at the International Criminal Court," John Marshall Law Review, Vol. 43, Issue 3 (2010), p. 536.
144 N. "The Legacy of Colonial Racism in Africa," by Noah Bassil, Australian Quarterly, July–August 2005, Vol. 77, No. 4 (July–August, 2005), page 1.
145 David C. Gompert, Hans Binnendijk, and Bonny Lin, "Blinders, Blunders, and Wars: What America and China Can Learn: The U.S. Invasion of Iraq 2003," Rand Corporation, Chapter 14, page 161.
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This imbalance is indicative of a larger trend: international law is enforced when it serves the interests of the strong, and it is casually ignored when it does not. By contesting the idea that international law is an impartial, objective framework, critical legal theory reveals these structural disparities [148]. Rather, it shows how individuals in positions of economic and geopolitical power influence the law. The lack of a centralized legislative, executive, or judicial branch, as well-knownly criticized by
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147 Nsongurua J. Udombana, "An Escape from Reason: Genocide and the International Commission of Inquiry on Darfur," The International Lawyer, Spring 2006, Vol. 40, No. 1, pages 41–42. Also see: Daniel M. Greenfield, "The Crime of Complicity in Genocide: How the International Criminal Tribunals for Rwanda and Yugoslavia Got it Wrong, and Why it Matters," The Journal of Criminal Law and Criminology (1973–), Spring, 2008, Vol. 921-923 in 98, No. 3, Symposium: Redefining International Criminal Law: New Interpretations and New Solutions (Spring, 2008).
148 Anthony Carty, "Critical International Law: Recent Trends in the Theory of International Law," pages 1-3. For further information, see:
149 "Kelsen and others' arguments regarding the "Grundnorm" or "basic norm" of international law, including the principle of pacta sunt servanda, were unpersuasive to Hart, who was not persuaded that there was a rule of recognition within the system of international law because not all international rules originate from pacta. 11 However, the fundamental principles of international law continued to be enforceable notwithstanding the lack of the norm of recognition. 12 Instead, the "rules of the simple structure are, like the basic rule of the more advanced systems, binding if they are accepted and function as such," D. Murphy, "The Concept of International Law," American Society of International Law Annual Meeting Proceedings, Vol. 103, International Law as Law (2009), pages 165–168.default%3A564794206642ca49556982d5d0eaff99&ab_segments=0%

2Fbasic_search_gsv2%2Fcontrol&initiator=search-results&acceptTC=1
150 R.S. Clark "Hans Kelsen's "Pure Theory of Law," Journal of Legal Education, 1969, Vol. 22, No. 2 (1969), pages 170–171. https://www.jstor.org/stable/pdf/42891986.pdf is accessible.refreqid=fastly-default%3Ac305640092d47a64e5dba59eba9a0e5f&ab_segments=0%2
Fbasic_search_gsv2%2Fcontrol&initiator=search-results&acceptTC=1
rules consistently [151]. According to Kelsen, its claim to complete legal standing in the positivist sense is compromised by this omission.
However, international law continues to be an essential foundation for global governance in spite of this fundamental flaw. It sets expectations for behavior among nations, promotes collaboration, and offers normative direction [152]. Even if international law is flawed, organizations like the United Nations, the International Court of Justice, and an increasing number of treaties and customary rules show how important it is for fostering accountability, order, and peaceful cohabitation in the global community. Its ability to mold behavior, impact state policy, and represent common moral and legal values is what makes it relevant rather than rigorous enforcement.
A pillar of contemporary moral and political philosophy, John Rawls' "Theory of Justice" provides an engaging framework for considering equality, justice, and the composition of just societies [153]. The "original position" and the "veil of ignorance," a thought experiment in which reasonable people would choose justice rules that guaranty fairness for everyone if they were unaware of their own social standing or personal characteristics, are fundamental to Rawls's theory [154]. The "difference principle," which accepts social and economic inequality only if it benefits the least advantaged, is one of these principles, along with equal fundamental rights for all [155].
Although Rawls first concentrated on domestic justice, his subsequent book, "The Law of Peoples," expanded these concepts to the global arena [156]. There, he highlighted the moral obligations of well-ordered communities to support people in difficult circumstances and to uphold their autonomy and rights [157]. Because they provide a normative perspective based on justice, human dignity, and global moral responsibility, Rawls's ideas are important in philosophical arguments regarding international law [158]. In contrast to strictly interest-based or positivist conceptions of international law, Rawl's work offers a framework that links legal standards to global ethical reasoning and justice concepts.

151 W.B. Stern, "Kelsen's Theory of International Law," American Political Science Review, Vol. 30, No. 4, pages 737-738 (Aug., 1936). 152 Jutta Brunne and Stephen J. Toope, "The Sovereignty of International Law," University of Toronto Law Journal, Fall 2017, Vol. 67, No.
4 (Fall 2017), page 496.
153 Thomas M. Scanlon Jr., "Rawl's Theory of Justice," University of Pennsylvania Law Review, May 1973, Vol. 121, No. 5, pages 1020–1021 (May, 1973).
154 Ibid at 1022 and 1052.
155 Ibid at 1049.
156 John Rawls, "The Law of Peoples," Autumn 1993, Critical Inquiry, Vol. 20, No. 1, pages 36–37 (Autumn, 1993). accessible at https://www.jstor.org/stable/pdf/1343947.pdf.refreqid=fastly-default%3A1dc75b4c1b346ee4caf3b2ee42f55f3a&ab_segments=0%2
Fbasic_search_gsv2%2Fcontrol&initiator=search-results&acceptTC=1
157 Ibid at 62.
158 Ibid. at 37
By rejecting the idea that legal validity depends only on state agreement, Ronald Dworkin's approach to international law deviates from conventional positivist conceptions [159]. Rather, he promotes an interpretivist paradigm that holds that international law should be seen as a normative practice based on moral principles [160]. According to Dworkin, the best moral interpretation of the legal system as a whole, rather than just treaties or customs, is where legal responsibilities originate [161]. This indicates that the degree to which legal standards represent ideals like justice, fairness, and human dignity determines legitimacy in international law rather than procedural conformity to state agreement.
According to this moral interpretation, international law is a collaborative endeavor dedicated to treating every person equally under the law rather than a neutral coordinating mechanism among sovereigns. According to Dworkin, norms like those contained in human rights law or jus cogens are binding because

they articulate morally sound ideas within a cohesive interpretative system of global justice, not because governments have ratified them [162].

Normative and moralized explanations of the international legal system stand in sharp contrast to Eric Posner's realist view of international law. Posner argues that international law is best understood as a strategic weapon used by governments to further their self-interest, drawing on the traditions of "legal realism" and "rational choice theory" [163]. According to him, governments only abide by international law when it serves their political, economic, or security goals, despite the rules' seeming order and consistency [164]. As a result, international law lacks the normative authority and internal coherence usually associated with domestic legal systems, and its efficacy depends on the shifting power dynamics and interests of sovereign players.

In terms of philosophy, Posner questions the notion that, in the absence of a centralized enforcement mechanism or a common moral foundation, international law can effectively restrain state behavior [165]. He contends that appealing to

justice or universal human rights in the international legal sphere often obscure the instrumental calculations driving state behaviour [166]. Treaties and customary norms, under this view, are not manifestations of moral consensus but expressions of negotiated advantage. Thus, for Posner, the legitimacy of international law does not derive from its moral content or interpretive coherence, but from its utility as a coordination mechanism among self-interested actors. However, without compulsory jurisdiction or enforcement mechanisms, especially over the most powerful states, international law often functions more as a diplomatic tool than a binding legal regime. For genuine international justice to prevail, critical reform is needed, reforms that dismantle the hierarchy within global legal structures, ensure equal accountability regardless of state power, and replace discretionary compliance with enforceable legal obligations. Only then can international law move beyond victors' justice toward a more principled and equitable global order.

Conclusion

The philosophical and jurisprudential foundations of international law reveal a system historically shaped less by universal justice than by the strategic imperatives of power. Rooted in theological origins and later secularized through Eurocentric doctrines, international law has too often served as an instrument of domination cloaked in legality. Its continued reliance on frameworks that privilege state consent over ethical imperatives sustains deep structural inequities. To fulfill its normative promise, international law must reckon with its inherited contradictions and reorient itself toward a more egalitarian and morally coherent legal order. This requires not merely doctrinal reform but a fundamental reimagining of *sovereignty,* legitimacy, and justice within the architecture of international legal thought.

[159] Ronald Dworkin "A New Philosophy of International Law," Philosophy & Public Affairs, WINTER 2013, Vol. 41, No. 1 (WINTER 2013), page 7.

[160] Ibid at 9.

[161] Ibid at 10.

[162] Ibid.

[163] "Because states have no intrinsic desire to comply with international law, all international law is limited by the rational choice of self-interested actors. Efforts to improve international cooperation must bow to this logic, and although good procedure and other sensible strategies might yield better outcomes, states cannot bootstrap cooperation by creating rules and calling them law." For more see: Eric A. Posner "Do States Have A Moral Obligation," Stanford Law Review, May, 2003, Vol. 55, No. 5 (May, 2003), page 1919.

[164] Ibid.

[165] "Who is the international authority to which states owe allegiance? When we look f such an authority, we find none-no world government and no authority international institution. All we can find is a series of conventions that have evolved gradually over hundreds of years, their

provenance mysterious except that we know that current governments representing living individuals did not create them." Ibid at 1912.

[166] Ibid at 1919.With a strong focus on the moral foundations of legal systems, this subsection offers a juridical analysis of the international legal system. especially when it comes to international law, which lacks a supreme sovereign authority. It acknowledges that the authority and validity of international legal standards often depend on their conformity to core moral values like justice, human rights, and the common good rather than only on enforcement methods [108].

The view that law without morality runs the danger of becoming merely coercion or political convenience is reinforced by jurisprudence, particularly that which is based on natural law theory, which asserts that international law gets its normative validity from its potential to represent universal ethical principles. Using ideas from legal positivism, natural law, and critical legal studies, the jurisprudential method investigates the nature, origins, and validity of international legal standards. This viewpoint is crucial for answering persistent queries on the state of

2Fbasic_search_gsv2%2Fcontrol&initiator=search-results&acceptTC=1
106 Rajen Harshe, "Understanding Transition toward Post-Apartheid South Africa," Economic and Political Weekly, September 18, 1993, Vol. 28, No. 38 (September 18, 1993), pages 1980-1981. 107 Robert J. Miller, "The International Law of Colonialism: The Doctrine of Discovery," The Indigenous Peoples' Journal of Law, Culture, & Resistance, 2019, Vol.5 (2019) 35–36.
108 L.S. Woolf, "International Morality," pages 11–12.
The definition of state duty, international law as a legal system, and the relationship between morality, power, and law on a worldwide scale.
It is sometimes claimed that governments follow international legal rules out of a feeling of moral duty when applied to the sphere of international law, where states are the main players [109]. Both political philosophy and normative jurisprudence support this claim. For instance, proponents of natural law theory contend that moral precepts ingrained in human nature are the source of law. According to Thomas Aquinas, governments are answerable to a higher moral order, fair laws must be based on morality [110].
Hugo Grotius, who is considered a founding figure in international law, claimed that reason requires certain moral responsibilities between nations even in the absence of supernatural authority [111]. In a similar vein, Immanuel Kant's concept of the "kingdom of ends" [112]. believed that a moral community of states, guided by the categorical imperative and the dictates of reason, would live with dignity and respect for one another [113]. The moral foundation of the international legal system is strengthened by this viewpoint.
Practically speaking, international legal documents like treaties and conventions represent moral obligations that go beyond simple political expediency. the fundamental tenet of "pacta sunt servanda" [114]. that commitments must be honored; represents fundamental moral principles like loyalty, reliability, and good
109 "Is It Possible for a State to Have Duties?See Rhetoric, Morality, and International Law, pages 185–186, for further information.
110 Stephen Pope, "Reason and Natural Law," page 150, Chapter 9.
111 Charles Edwards, "The Law of Nature in the Thought of Hugo Gortius," Law of Nature in Grotius (1970), pages 784-785.
112 Edward Demenchonok, "Learning from Kant: On Freedom," Revista Portuguesa de Filosofia, T. 75, Fasc. 1. Contemporary Politics and Ethics: Kantian Resonances (2019), 199-200.
113 "The original formulation of the categorical imperative, 'act only on that maxim through which y concomitantly' will that it should become a universal law,' is the most well-known principle in moral philosophy." For additional information, see Patricia Kitcher's "Kant's Argument for the Categorical Imperative," Noûs, Dec., 2004, Vol. 38, No. 4, page 555 (Dec., 2004). 114 "As part of the pacta sunt servanda principle, the principle of good faith binds subjects of international law to identify in good faith the actual circumstances and interest of states within the scope of a rule; to select the applicable rule or rules in good faith; to ensure that the application of rules is truly compatible with their letter and spirit, as well as with concepts of international law and morality and other obligations of the subjects." For further information, see: I. I. Lukashuk, "The American Journal of International Law," Vol. 83, No. 3 (July 1989), pages 517.
faith, which are necessary for treaty law to be stable and legitimate [115]. This idea is consistent with Kantian moral theory, which maintains that respect for other people's autonomy and vows is a categorical imperative.
In a similar vein, the evolution of customary international law (CIL) demonstrates the nuanced interaction between moral expectation and legal duty. In addition to consistent and widespread governmental practice, CIL also arises from "opinio juris," or the conviction that such behavior is carried out out of a feeling of legal obligation [116, 117]. However, opinio juris does not necessarily draw a distinct line between moral and legal responsibility, which permits moral standards and ethical reasoning to have an impact on the creation and interpretation of international legal responsibilities. In this sense, international law functions as a mirror of common moral understandings that develop via both legal discourse and global conscience, rather than just as a set of rules [118].
Furthermore, moral beliefs must be included into international law due to the ideals of justice and humanity. For example, certain laws, including those that forbid slavery, torture, genocide, and crimes against humanity, have attained the status of "jus cogens" [119], which means that all governments must abide by

them. These

115 Ibid.

116 "State practice and opiniojuris are generally regarded as the two components of custom. State practice refers to the general and consistent practice by states, whereas opinion juris indicates that the practice is carried out out of a belief of legal obligation.6 This distinction is problematic because it is difficult to determine what states believe as opposed to what they say. For further information, read Anthea Elizabeth Robert's article "Traditional and Modern Approaches to Customary International Law: A Reconciliation," The American Journal of International Law, Oct., 2001, Vol. 95, No. 4 (October 2001), page 757.

117 "We may focus on two issues while discussing the function of opinio juris. The first concerns the function of opinio juris in the process of making laws (i.e., whether it is constitutive or declaratory of the law). The second relates to its function in qualifying State practice in the sense of differentiating between acts that are legally relevant and those that are not; it is crucial to distinguish between practice that is deemed legal on the one hand, and practice that is based on civility, morality, or fairness on the other. States' recognition of the legal quality of practice (i.e., opinion juris) is thought to be the touchstone of this distinction.

118 Ibid at 502–503.

119 "International crimes that qualify as jus cogens are inderogable obligatio erga omnes." The duty to prosecute or extradite, the inapplicability of statutes of limitations for such crimes, the inapplicability of any immunities up to and including Heads of State, the inapplicability of the defense of "obedience to superior orders" (apart from as a mitigation of sentence), the universal application of these obligations whether in times of peace or war, the non-derogation under "states of emergency," and the universal jurisdiction over perpetrators of such crimes. "International Crimes: Jus Cogens and Obligatio Era Omnes," by Cherif Bassiouni, Law and Contemporary Problems, Autumn, 1996, Vol. 59, No. 4, Serious Violations of Fundamental Human Rights and International Crime (Autumn, 1996), page 63.

Universal moral imperatives that go beyond governmental permission are reflected in norms [120]. From a complementary standpoint, broad treaty acceptance may solidify new practices into customary international law, while treaties often help to codify pre-existing customary norms [121].

As a recognized source of law under the Statute of the International Court of Justice ("ICJ"), the "principles of international law" [122] include moral standards that direct human behavior [123] in addition to formal regulations. Such principles' validity often depends on how well they represent common moral norms that are acknowledged and embraced by the global society [124]. Treaties, customary law, and general principles are often used by international courts and tribunals when interpreting and applying international law.

The works of eminent jurists emphasize the moral aspect even though they are often considered a secondary source.

because they provide philosophical and legal reasoning that enhances the creation, interpretation, and implementation of legal standards, rather than because they are legally binding in and of themselves [126]. They enhance comprehension of the normative underpinnings of international law by offering conceptual clarity and interdisciplinary insight [127].

The "Peace Treaty of Westphalia (1648)," is primarily responsible for the contemporary idea of sovereignty in international law.

The "Thirty Years War" came to a conclusion [128] [129].

The idea that states have ultimate power inside their borders was established by this treaty [130]. Non-intervention, territorial integrity, and legal equality among states were all incorporated in this Westphalian paradigm [131]. Additionally, the treaty established international legal personality, which acknowledges nations as the principal subjects of international law with rights and duties [132].

of international law [125]. These works have an impact not

little direction on this issue. In contrast to the other three legal sources, the

120 Mysore G. Narasimhaswamy, "Jus Cogens and International Law," Journal of the Indian Law Institute, July-September 1972, Vol. "A treaty is void if it conflicts with a peremptory norm of international law from which no derogation is permitted and which can only be modified by a subsequent norm of general international law having the same character." 14, No. 3, page 341 (July-September 1972).

121 "The significance of general principles of law in the source of international law has been debated in both local and international scholarly circles since Article 38(1) of the Statute of the International Court of Justice requires basic principles of law. There are primarily three perspectives. According to the first perspective, general principles are not sources of international law. The first perspective, which maintains that a concept of law is both a separate source of international law and a part of natural law, is entirely at odds with the second. For further information, see Yu Lu's "Analysis of the General Principles of Law Article 38 of the Statute of the International Court of Justice," Beijing Law Review, 2022, 13, page 787. According to the third perspective, the general principle of law is an independent source of international law, but it is positive law.
122 The International Court of Justice was likewise founded in the aftermath of war, as part of global initiatives for a better future. However, its intellectual roots may also be found in the early twentieth-century war clouds. The world's most powerful countries were invited to an international peace conference held by the Russian Czar in 1907. The creation of a "Peace Palace" with an arbitral court and an exceptional library of international law was one of the eight points that the Hague Peace Conference agreed upon. Rosalyn Higgins, "The ICJ, the ECJ, and the Integrity of International Law," The International and Comparative Law Quarterly, Jan., 2003, Vol. 52, No. 1 (January 2003), pp.
Two.
123 Howard S. Schrader, "American Federal Courts' Use of Custom and General Principles as Sources of International Law," Columbia Law Review, May 1982, Vol. 82, No. 4, page 771 (May, 1982).
125 The International Court of Justice (ICJ) is required to consider "the teachings of the most highly-qualified publicists of the various nations" in addition to the three main sources of international law when resolving disputes between states. However, the definition of "most highly qualified" is not stated in the Statute, and the travaux–paratoires provide
According to Michael Peil, "Scholarly Writings as Source of Law: A Survey of the Use of Doctrine by the International Court of Justice," Cambridge Journal of International and Comparative Law (1)3: 136-161 (2012), pages 136-137, courts may only use publicists' teachings "as subsidiary means for the determination of rules of law."
126 "Juristic writings, comprising scholarly analyzes and interpretations of legal principles, theories, and concepts, serve as essential tools in the realm of law.1 Usually written by legal scholars, jurists, and academics, these writings come in a variety of forms, including books, articles, essays, treatises, commentaries, and legal opinions, serving several crucial functions within the field of law. They give legal commentary that helps clarify fundamental legal concepts by providing insights into current legislation, court decisions, and precedents. For additional information, visit Sayed Qudrat Hashimy & M.S. Benjamin, "Catalyzing Legal Systems: The Crucial Role of Jurist Writing," VBCL Law Review (2023), p. 298.
127 Ibid.
128 "Europe received an international constitution from the Treaties of Münster and Osnabrück, which served as the foundation for its public law until the French Revolution." However, it would be a grave mistake to believe that the international community of states as revealed to the world by the Peace of Westphalia meant the acceptance of the science of international law as now understood and applied by the international community. The current state of the science of international law is the outcome of two primary reasons, namely the sluggish historical progress. worldwide practice or custom on the one hand, and specific ideas or principles on the other. For more information, see Amos S. Hershey's "history of international law since the Peace of Westphalia," The American Journal of International Law, Vol. 6, No. 1 (January 1912), page 30.accessible at https://www.jstor.org/stable/pdf/2187396.pdf?refreqid=fastly-default%3Add8eb1a4ac75cdc3a5bed2d8edd620fa&ab_segments=0%2
Fbasic_search_gsv2%2Fcontrol&initiator=search-results&acceptTC=1 129 Ove Bring "The Westphalian Peace Tradition in International Law: From Jus ad Bellum to Jus contra Bellum," International Law Studies, Vol. 75, International Law Throughout the Conflict Spectrum, page 57-
59.
130 According to Ibid at 58, "moreover, in a longer-term perspective, the peace contributed to the emergence of the modern international system of territorial and sovereign States, where actors were (and are) maximizing their own State interests while at the same time striving for a balance of power."
131 Amos S. Hershey, "International Law Since the Peace of Westphalia," supra, note 128 at 43.

132 Derek Croxton, "The Origins of Sovereignty and the Peace of Westphalia of 1648," International History Review, September 1999, Vol.
It established the relationships between sovereign entities as the primary focus of the developing legal system and solidified the state-centric structure of international law [133]. But this idea of sovereignty was fundamentally Eurocentric, based on the political reality of European Christendom, and it disregarded or devalued other political structures [134]. Under this concept, complex imperial or dynastic institutions in Asia, indigenous government systems in the Americas, and customary law systems across Africa were not acknowledged as sovereign [135].
These non-European entities were thus denied international legal status, making them legally invisible and susceptible to eviction, annexation, and colonization [136]. As a result, the Westphalian idea not only influenced the structure of contemporary international law but also established a worldwide hierarchy that denied legal protection and legitimacy to large swaths of the globe [137]. Despite its idealistic claims to impartiality and universality, international law has traditionally served as a tool of "victors' justice" [138]. promoting the interests of powerful international nations above the fair administration of justice [139].
The aftermath of significant wars significantly influenced the structure of the international legal system. especially by the victorious Allied countries, who used organizations like the United Nations Security Council, which has five permanent members, to establish their supremacy.

21, No. 3 (September 1999), pages 569–570. 133 Ibid.
134 "The discussion of what standards and values ought to govern the interaction between native peoples and colonists gave rise to international law. Only subsequently did international law develop into a framework centered on territorial integrity, exclusive jurisdiction, state sovereignty, and non-intervention in internal matters. For further information, see Greg Marks' article "Sovereign States vs. Peoples: Indigenous Rights and The Origins of International Law," Australian Indigenous Law Reporter, June 2000, Vol. 15. The state-centered system of international law came to deny that individuals, indigenous societies, and even those nations deemed not sufficiently "civilized"15 could be subject to international law or have rights under such law. 5, No. 2 (June 2000), page
Third.
135 "The non-recognition of the sovereignty of the peoples of Americas, Africa, and Asia is common to the signatories [of the Westphalian Treaty, which were Europeans]." For further information, see Kwame Nimako's "Lost and Found: Sovereignties and State Formations in Africa and Asia," 2. 136 Ibid.
137 Greg Marks, "Indigenous Rights and the Origins of International Law: Sovereign States vs. Peoples," supra note 134 at 3.
138 "More fundamental objections to the concept of punishing war crimes sometimes appeal to the idea that such penalties simply represent "victors justice" rather than true justice." See Bill Wringe's article, "Why Punish War Crimes? Victor's Justice and Expressive Rationale for Penalties, Law and Philosophy, March 2006, Vol. 25, No. 2, 164 (Mar., 2006).
139 Ibid.
possess veto power [140] These powers, many of which rose to international prominence via economic enslavement, military aggression, and colonial invasion, did not ascend by moral virtue but rather by imperial control.
For example, "The Nuremberg Trials" [141] are often credited with giving rise to contemporary international criminal law [142]. Despite their importance, the trials solely prosecuted the Axis nations for crimes of aggression. Unfairly, comparable acts by the Allies, such the atomic bombings of Hiroshima and Nagasaki [143] or the horrors of colonialism carried out across Africa [144], were disregarded. In many cases, Western powers either disregard, distort, or selectively apply legal rules to suit their strategic goals, demonstrating the double standards ingrained in the implementation of international law.
The 2003 invasion of Iraq by the United States and the United Kingdom was a blatant violation of international law since it was carried out without the UN Security Council's express approval and was based on fictitious allegations of WMD [145]. However, there was no real judicial responsibility that followed. In a similar vein, Israel's extended occupation and settlement growth in the Palestinian territories are prohibited by

140 Michael Hatuel Radoshitzky, "UN Security Council Veto Mechanism Criticism: Consequences for Israel," INSS Insight No. 765. Pages 1-2.
141 “[The] major war criminals Goering, Hess, von Ribbentrop, and others were sentenced by an international military tribunal in Nuremberg for specific crimes or groups of crimes that had been formulated prior to the trial in a charter signed in August 1945 by the representatives of the United States, France, Britain, and Russia. Three main categories of delinquency—crimes against humanity, war crimes, and crimes against peace—were established in the Charter of the International Military Tribunal, which was accepted in London. Hans Leonhardt, "The Nuremberg Trial: A Legal Analysis," The Review of Politics, Oct., 1949, Vol. 11, No. 4 (October 1949), page 499.
142 From: Harvard Law Review Association, "International Criminal Law: Developments in the Law," Harvard Law Review, May 2001, Vol. 114, No. 7 (May 2001), page 1951.
143 William A. Schaba, "Victor's Justice: Choosing "Situation" at the International Criminal Court," John Marshall Law Review, Vol. 43, Issue 3 (2010), p. 536.
144 N. "The Legacy of Colonial Racism in Africa," by Noah Bassil, Australian Quarterly, July–August 2005, Vol. 77, No. 4 (July–August, 2005), page 1.
145 David C. Gompert, Hans Binnendijk, and Bonny Lin, "Blinders, Blunders, and Wars: What America and China Can Learn: The U.S. Invasion of Iraq 2003," Rand Corporation, Chapter 14, page 161.
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147 Nsongurua J. Udombana, "An Escape from Reason: Genocide and the International Commission of Inquiry on Darfur," The International Lawyer, Spring 2006, Vol. 40, No. 1, pages 41–42. Also see: Daniel M. Greenfield, "The Crime of Complicity in Genocide: How the International Criminal Tribunals for Rwanda and Yugoslavia Got it Wrong, and Why it Matters," The Journal of Criminal Law and Criminology (1973–), Spring, 2008, Vol. 921-923 in 98, No. 3, Symposium: Redefining International Criminal Law: New Interpretations and New Solutions (Spring, 2008).
148 Anthony Carty, "Critical International Law: Recent Trends in the Theory of International Law," pages 1-3. For further information, see:
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150 R.S. Clark "Hans Kelsen's "Pure Theory of Law," Journal of Legal Education, 1969, Vol. 22, No. 2 (1969), pages 170–171. https://www.jstor.org/stable/pdf/42891986.pdf is accessible.refreqid=fastly-

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Fbasic_search_gsv2%2Fcontrol&initiator=search-results&acceptTC=1
rules consistently [151]. According to Kelsen, its claim to complete legal standing in the positivist sense is compromised by this omission.
However, international law continues to be an essential foundation for global governance in spite of this fundamental flaw. It sets expectations for behavior among nations, promotes collaboration, and offers normative direction [152]. Even if international law is flawed, organizations like the United Nations, the International Court of Justice, and an increasing number of treaties and customary rules show how important it is for fostering accountability, order, and peaceful cohabitation in the global community. Its ability to mold behavior, impact state policy, and represent common moral and legal values is what makes it relevant rather than rigorous enforcement.
A pillar of contemporary moral and political philosophy, John Rawls' "Theory of Justice" provides an engaging framework for considering equality, justice, and the composition of just societies [153]. The "original position" and the "veil of ignorance," a thought experiment in which reasonable people would choose justice rules that guaranty fairness for everyone if they were unaware of their own social standing or personal characteristics, are fundamental to Rawls's theory [154]. The "difference principle," which accepts social and economic inequality only if it benefits the least advantaged, is one of these principles, along with equal fundamental rights for all [155].
Although Rawls first concentrated on domestic justice, his subsequent book, "The Law of Peoples," expanded these concepts to the global arena [156]. There, he highlighted the moral obligations of well-ordered communities to support people in difficult circumstances and to uphold their autonomy and rights [157]. Because they provide a normative perspective based on justice, human dignity, and global moral responsibility, Rawls's ideas are important in philosophical arguments regarding international law [158]. In contrast to strictly interest-based or positivist conceptions of international law, Rawl's work offers a framework that links legal standards to global ethical reasoning and justice concepts.

151 W.B. Stern, "Kelsen's Theory of International Law," American Political Science Review, Vol. 30, No. 4, pages 737-738 (Aug., 1936). 152 Jutta Brunne and Stephen J. Toope, "The Sovereignty of International Law," University of Toronto Law Journal, Fall 2017, Vol. 67, No.
4 (Fall 2017), page 496.
153 Thomas M. Scanlon Jr., "Rawl's Theory of Justice," University of Pennsylvania Law Review, May 1973, Vol. 121, No. 5, pages 1020–1021 (May, 1973).
154 Ibid at 1022 and 1052.
155 Ibid at 1049.
156 John Rawls, "The Law of Peoples," Autumn 1993, Critical Inquiry, Vol. 20, No. 1, pages 36–37 (Autumn, 1993). accessible at https://www.jstor.org/stable/pdf/1343947.pdf.refreqid=fastly-default%3A1dc75b4c1b346ee4caf3b2ee42f55f3a&ab_segments=0%2
Fbasic_search_gsv2%2Fcontrol&initiator=search-results&acceptTC=1
157 Ibid at 62.
158 Ibid. at 37
By rejecting the idea that legal validity depends only on state agreement, Ronald Dworkin's approach to international law deviates from conventional positivist conceptions [159]. Rather, he promotes an interpretivist paradigm that holds that international law should be seen as a normative practice based on moral principles [160]. According to Dworkin, the best moral interpretation of the legal system as a whole, rather than just treaties or customs, is where legal responsibilities originate [161]. This indicates that the degree to which legal standards represent ideals like justice, fairness, and human dignity determines legitimacy in international law rather than procedural conformity to state agreement.
According to this moral interpretation, international law is a collaborative endeavor dedicated to treating every person equally under the law rather than a neutral coordinating mechanism among sovereigns. According to Dworkin, norms like those contained in human rights law or jus cogens are binding because they articulate morally sound ideas within a cohesive interpretative system of global justice, not because governments have ratified them [162].
Normative and moralized explanations of the international legal system stand in sharp contrast to Eric

Posner's realist view of international law. Posner argues that international law is best understood as a strategic weapon used by governments to further their self-interest, drawing on the traditions of "legal realism" and "rational choice theory" [163]. According to him, governments only abide by international law when it serves their political, economic, or security goals, despite the rules' seeming order and consistency [164]. As a result, international law lacks the normative authority and internal coherence usually associated with domestic legal systems, and its efficacy depends on the shifting power dynamics and interests of sovereign players.

In terms of philosophy, Posner questions the notion that, in the absence of a centralized enforcement mechanism or a common moral foundation, international law can effectively restrain state behavior [165]. He contends that appealing to