Pan-African Journal of Education and Social Sciences (PAJES)
Vol 5, No. 2, 18-27, 2024

https://doi.org/10.56893/pajes2024v05i02.02

Critical Examination of International Law Theories

Adama Aloysious Gross*

Adventist University of West Africa, Liberia

Abstract

This paper examines the complex web of international law and various theories that address its creation, evolution, and usage. This paper critically evaluates many theories to understand what state sovereignty entails, the role played by international institutions, and how compliance has been enforced. By scrutinizing these theories, this paper endeavors to reveal the epistemological structures that underpin the evolution of the science of international law, which may contribute to clarifying the topical discourse concerning the legitimacy, effectiveness, and malleability of the discipline in the context of modern global processes. Glass adventure is initiated by analyzing natural law theory to investigate the presence of universal norms that apply to all inhabitants of the world within the sphere of human relations. The paper then moves to positivist theories, focusing on the state's consent and formal sources of law as pillars of international legal duties. Moreover, the paper analyzes the realist, fictional, and functional theories of international law. This analysis aims to advance the knowledge of the theoretical underpinnings that influence the development of international law in the modern global environment.

Keywords: International law, positivist theory, fictional theory, realist theory, natural theory

Introduction

In the process of changing world politics, international law is a fundamental basis through which the behavior of nations is regulated and the relations between states are defined. International law, based on justice and cooperation, forms a set of norms to which the international community resorts, with the aim of negotiating solutions for conflict, calling for the protection of human rights, and calling for war, in addition to outlining ways of conducting diplomacy. This paper begins by examining the multifaceted nature of international law, paying particular attention to the various theories that govern the creation, expansion, and application of law. A spate of questions arises when one steps into the complex topography of international law: What are the basic philosophical grounds on which the idea of international law is based? How would various theories interpret state sovereignty, international institutions, and enforcement methods? Scrutinizing the various theoretical underpinnings shows how the author advances an intellectual basis for how international law has evolved to date and informs current debates over its legitimacy, effectiveness, and ability to evolve by pressing current global problems.

International Law Conceptualization

International law, also called public international law or law of nations, is defined as the set of laws, customs, and rules that govern relations between sovereign states and other organizations recognized as officially participating in international affairs (Kokott, 2011). The name international law was coined by Jeremy Bentham, a famous English philosopher (Janis, 1984). However, the origin of philosophical reflection on international legal questions is based on the work of ancient Greece and Rome regarding natural law. The existence of such a universal normative order, discoverable through the

 *Contact author: grossdboss35@gmail.com

exercise of ordinary human or "natural" reason, was defended by philosophers in this tradition, including Plato, Aristotle, Cicero, and the Stoics, above the laws and customs found in given societies (Nussbaum, 2019).

According to Bentham, transactions between subjects of different states are regulated, concerning each of the respective states, by its internal laws and determined by its internal tribunals. The same circumstance arises the instant the state engages in direct commercial activity with a private citizen of another state, in which case the state submits to the jurisdiction of the relevant tribunal and assumes the role of a private individual (Warburton, 2023).

International law refers to a legal system that guides states, international organizations, and individuals with regulations and principles with respect to one another. It is complex and dynamic so far as it has evolved over many years; hence, it can tackle a variety of subjects, including human rights, trade, the environment, armed conflict, and diplomatic relations (Pan, 2024). Two assumptions about international law have been made by Bentham: while he first held the view that so far as international law was concerned, the rights and obligations of states inter se alone, and not those of individuals, were its subjects; second, he held the view that whenever municipal courts dealt with foreign transactions, domestic laws, and not foreign laws, were always in charge (Janis, 1984).

Contemporary definitions of international law are indicators of the inclusive nature of the subject, whereas Bentham's definition and stand were typical and traditional (Britannica Encyclopedia, 2023). J.G. Starke defines international law as the body of law that principally comprises rules of moral duty and ethical conduct owed by states to one another. As such, accepted by them and habitually observed in their intercourse, the above definition and explanation encompass a broad meaning of international law (Garg, 2020). The definition also encompasses legal provisions operational in the functioning of international organizations and institutions, their relations with one another, and with states and individuals. It was Hugo Grotius, a Dutch natural lawyer, who, according to some, provided foundational ideas through which modern international law could emerge as a proper system of positive law rather than purely a set of universal moral or natural law precepts (Nussbaum, 2019). In a broad sense, international law consists of norms, processes, and structures for international actors, primarily states, but increasingly international organizations and certain individuals. Apart from the typical topics of war, peace, and diplomacy, international law nowadays influences an increasing number of topics and actors involved in human rights, trade and economic issues, space law, and international organizations. International comity refers to those customs that states observe out of courtesy and do not have the force of law (Shaw, 2023).

Subjects of International Law

Any individual and legal entity with an international persona can be considered a subject of international law (Dixon, 2013). During the nineteenth century, states were the only qualified entity to represent the features of the subjects of international law. As the war began to subside during World War II, individuals also frequently came up with new entrants in the domain of international law. These include state-created intergovernmental organizations, individual-created non-governmental organizations, multinational companies, and natural persons. In the wake of the Second World War, an array of new actors in the international legal system revolutionized the state entity as the sole subject of public international law in the 19th century. Whereas IGOs had been formed by people in positions of power creating such structures as states and international organizations, with Private International Groups, individuals in civil society creating NGOs, and even people who simply made decisions in their quotidian lives became new actors (Parfitt & Craven, 2018).

The subjects that international law covers have been divided into three categories: states-

a body acquires international legal personality and becomes an international legal person when it becomes a state. Indeed, it was the historical function of the branch of international law to regulate relations between states, and hence, the state can be considered both a subject and an object of international law (Nicholson, 2019). Non-state actors- those considered subjects of international law are individuals, groups engaged in armed struggles, and international organizations such as the African Union, United Nations, and the European Union. The third is International organizations which are another essential area of international law. They have been defined as organizations created by a treaty or other instrument governed by international law and having a legal personality (Jenks, 2017). These include the World Trade Organization, the United Nations, and others.

Theories of the Subject of International Law

A variety of theories have been put forth by scholars to explain the nature, origins, and goals of international law because it is a complex and ever-evolving legal system. Since many academics have different perspectives on what international law is and how it works, they have taken different approaches to these theories. As a result, studying a variety of theories helps to cover the complexity of this field (Durkee, et al. 2023). Still again, how well international law functions is also a debatable issue. In such a case, it is argued that international law does an important job in promoting international cooperation and justice, while others would counter simply that its ability is too narrow in the efforts towards balancing power and compliance issues. Three theories related to international public law have been proposed. These include the Realist Theory of International Law; Fictional Theory of International Law and Functional Theory of International Law (Garg, 2020).

Realist Theory

Realist theory builds upon traditional interpretations made by philosophers such as Jeremy Bentham during the 18th century (Garg, 2020). According to this theory, public international law should only be applicable to national states. Based on this theory, only sovereign states can be subjects because their actions are limited by international laws themselves. States are purportedly the ultimate subjects within the ambit of international laws because no matter who are members, these states are separate entities with rights, duties, and responsibilities and can enforce those rights before the law (Janis, 1984). For any domain to assume statehood, there is usually a benchmark set by Article One of the Montevideo Convention on the Rights and Duties of States. According to the instrument, any state should have a government, well-defined geopolitical territory, perpetual population, and be able to interact with other states.

Rights and obligations granted to the state as a subject include equality, coexistence, self-determination, independence, and respect rights. Similarly, in 1949, the ILC proposed a declaration on the rights and duties of states, which are the minimum guaranteed rights for countries, such as upholding peace and security, protecting human rights and fundamental freedom, equality rights, independence rights, jurisdictional rights, and duty of non-intervention and equality before international law (United Nations, 1949).

This is what put an end to people's legitimacy as subjects of international law (Scobbie, 2010). However, Realist Theory only provides a system for understanding the state's role, abandoning the pivotal role of non-state actors or individuals. From this perspective, the focus of attention is divorced from major international governance actors, such as multinational corporations, multinational organizations, and non-governmental organizations. Further, the theory overlooks the fast-growing body of international human rights legislation applicable directly to individuals; hence, its application to the ongoing international legal discourse is narrow.

Fictional Theory of International Law

The fictional theory of international law propounds that international law is not consent-based and rooted in actual state practice but rather based on a fiction or assumption of state behavior (Garg, 2020; Korowicz, 1959). Thus, the theory challenges the traditional understanding that international law is based on the consent and practice of states. As Pavel (2021) mentioned, when an in-depth analysis of international law is pursued, it will be demonstrated that international law recognizes only individuals as subjects of the law. Professor Kelson is the most profound proponent of this theory, claiming that only individuals have the right to be covered under international law. Basically, men are responsible for their own rights and duties since all states exist as entities of human creation. Today, many treaties have established responsibilities or rights for individuals. In certain cases, individuals have been granted specific liberties that they are entitled to upon accession to agreements (Musoke, 2023). Despite Article 36(2) of the Statute of the International Court of Justice, other instruments have established a person's procedural capacity, supporting the widely held belief that only states may be parties to international proceedings. According to public international law, international treaties, courts, and judicial bodies have all formally recognized the right to individual personality (Orakhelashvili, 2001).

The main objection to fictional theory is that it sees only individuals as subjects of public international law, not states. This theory has within itself a proposition that while states are the principal actors, only individuals can be termed subjects of international law because people constitute states. This fictional theory fails to represent persons as subjects of international law, since states play a significant role in international law and human beings obtain their rights from them (Hernández, 2019).

Functional Theory of International Law

Realistic and fictional theories have been two opposing poles. However, functional theory is primarily in opposition to these two theories. The theory conceives that elements of international law exist due to both the states and people; governments or individuals are a part of it, rendering them subjects. After presenting their international claims, the states become actively involved in maintaining their rights, duties, and obligations as subjects of primary or original rule (Hernández, 2022; Korowicz, 1959). Existing international law also grants individuals certain rights, duties, and responsibilities that can be enforced directly through the application of litigation mechanisms at an international level (Hernández, 2019). However, the inclusiveness of the approach towards international law has allowed international organizations and non-state entities to gain the status of subjects, thereby expanding the field's boundaries (Pavel, 2021).

There is little criticism of the theory because it rightly includes, besides states and individuals, non-state entities as well as international organizations as subjects of international law. Functional theory has aptly captured the comprehensive outlook of modern international law. With the expanded scope of modern international law, entities other than states and individuals that may have been granted international personality will also be considered subjects of international law (Hernández, 2022; Korowicz, 1959). Several actors in international law have been accorded rights, duties, and obligations and have filed international claims to enforce their rights.

Foundational Theories of International Law

As a normative framework, international law gives states a set of guidelines that regulate their dealings with one another. It establishes a common ground for resolving conflicts, establishes limits, and encourages nations to live in harmony with one another (Gross, 2024). A few founding theories have led to the understanding and establishment of international law.

Cultural Theory

The cultural theory of international law examines the relationship between culture and the development, interpretation, and application of the norms of international law. This would manifest the understanding that culture has a major bearing on the behavior of states and other international actors through the legal system of the world (Von Hein, 2021).

Different cultures may have different views on issues related to human rights, sovereignty, and the use of force. These cultural differences can further impact how states interpret and prioritize a variety of international legal norms (Udich, 2022). The cultural theory of international law underlines the cultural and legal diversity worldwide. It considers that the legal system and legal norms have been developed historically, socially, and culturally within every society (Albrecht, 2021). As such, international law applied and accepted will sometimes relate to cultural context.

Cultural relativists theorize on the principle of cultural relativism that no set of values exists that should be equitably implemented across every society. They countered this by proposing the idea that international law should consider and leeway for different values and practices within different cultures (Billet, 2007). From this perspective, what is considered just, fair, or acceptable behavior in the international arena may vary profoundly across cultures. This would support a cultural relativist argument that a common good does not exist rooted in universal standards of morality and ethics. Still, judgments about the appropriateness of certain acts must be framed within the context of specific cultural norms (Saaida, 2023). More culturally oriented critics of international law also point out the role of cultural hegemony: the legal principles and norms propagated by powerful states or groups are often hegemonic, standing at the expense of marginalized or less powerful cultures (Von Hein, 2021).

Critics of cultural theory argue that some powerful states or groups may impose their cultural values on others as a form of cultural hegemony. This has implications for both the development and application of international law. Dominant cultures may secure influence in creating norms that reflect their own views and interests (Lears, 1985).

Natural Law Theory

The natural law theory of international law presumes that there is something inherently just and moral and that such elements should be the basis of any norm or standard in international law (Britannica Encyclopedia, 2023). The theory formed naturally from classical philosophy, whereby thinkers such as Aristotle and Thomas Aquinas championed this argument. Natural law is universal, unchanging, and knowable through reason. By implication, natural law theorists argue that there are basic principles that apply to all human beings and, therefore, to states as a whole (Dimock, 1999). From this perspective, natural law theory argues that there are 'intrinsic' moral principles that guide states and individuals in their dealings within the international community (Angier et al., 2020). It is argued that these principles are discoverable through the reasoning and reflection of human nature.

In addition, the natural law theory cites the roles of morality and justice in international law. They argue that legal rules must reflect ethical principles. It also posits that states are morally obligated to adhere to these principles in their interactions with others (Britannica Encyclopedia, 2023). In addition, natural law theorists believe that international law ought to be compatible with the default nature of mankind, including giving worth to people's dignity, ensuring that human beings prosper, as well as observing fundamental human rights (Angier et al., 2020).

Positivist Theory of International Law

The positivist theory of international law refers to a legal approach that declares that consent and recognition by states form the basis for international law obligations. One

would thus derive a theory such as this from the principle that international law takes its authority from explicit consent on the part of states and not from other non-positive sources, such as natural law or morality (Lee & Lee, 2010). Positivism rejects any notion of inherent, universal principles leading to states' behavior in the international environment. Positivists insist that states voluntarily submit themselves to international agreements and treaties, where states express consent to be obligated by the terms of such agreements (Kosik, 2021).

The consent of the state is one of the basic foundations for the creation and legitimacy of international legal obligations. Positivism identifies formal sources that are primarily based on treaties, customs, and general principles recognized by civilized nations (Hovell, 2022). Treaties are a central and formal method through which states express their consent to being bound by rules. Under positivism, great weight is given to the actual practice of states, referred to as state practice, and to their belief that such practice is legally binding, referred to as opinio juris (Oloyede, 2021). Where consistent practice and the belief that such practice is legally binding meet, customary international law is thought to be established. In the theory of positivism, however, a greater emphasis on state sovereignty is inclined, whose proponents hold the belief that states are the main actors in the international legal system and that their rights and duties result merely from their voluntary subject to legal arrangements.

Critical Legal Studies

Critical legal studies (CLS) are a theoretical approach to the law that was first developed in the United States during the late 1970s and the early 1980s (Kennedy & Klare, 1984). It challenges mainstream legal thought; essentially, the core centers on power, politics, and the social context within it, which shapes the concepts of law and institutions (Bauman, 2021). Although initially CLS focused much more on domestic law, their principles and ways emerged to be applied to international law as well (Cornell Law School, 2017).

In this respect, international law is defined as a critical investigation of the assumptions, structures, and power relations constitutive of the making and application of international legal norms (Bowring, 2019). According to CLS scholars, international law is neutrally enacted because it gives way to dominant states or actors' interests and power relations. They question how often international legal rules reflect and reinforce existing power relations, benefiting some states at the expense of others (Henriksen, 2023).

Analysis

International law is complex and continuously evolving; in an effort to explain its nature, roots, and purposes, a number of theoretical stances have been forwarded. Well-documented theories include realist, frictional, and functional theories, each attaching unique insight into the topics that come within the meaning of international law.

For instance, Realist Theory, rooted in a highly state-centric approach, claims that nation-states are the only exclusive subjects under international law. Realist Theory has therefore been helpful in offering an orderly and straightforward conceptual framework in the role of states but is nonetheless condemned for its exclusion of non-state actors and people. By contrast, Professor Hans Kelsen's fictional theory is far opposite to realism because it purports that individuals, not states, are the real subjects of international law. The primary fallacy of Fictional Theory, as submitted by Gaeta et al. (2020), is the radical claim that only individuals are subjects of international law. Although it is true that individuals now have certain rights and are considered by international law, this theory is unrealistic in that it downgrades states' importance.

The broad advantage of Functional Theory is that it is flexible and inclusive, which makes it quite applicable in today's modern, globalized world. However, this can also be considered

a disadvantage because it may blur the line, leading to legal subjectivity. The problem with the broad scope of application is that it demonstrates how the theory experiences friction in providing an exact definition of various entities' legal status and responsibilities, which may lead to ambiguous, unrounded legal interpretations and enforcement.

On the other hand, culture is prominently featured in the making, interpreting, and applying international legal norms, as the cultural theory of international law has pointed out. Such a theory postulates that cultural variations are a significant determinant of how states and other international players would interact with the international legal system. In contrast, critics of cultural theory (Franklin, 2023; Klabbers, 2020) refer to a case of cultural hegemony that the values and legal standards promoted by strong states or organizations take hold, often at the expense of weaker or marginalized cultures. Dominant cultural values may be forcibly imposed upon people through this process, which is a form of cultural imperialism that impinges on the formulation and application of international law.

Natural law, in contrast, believes that morality and justice have a greater influence on international law, that moral principles should comprise the guidelines for legal interpretation, and that states are morally bound to adhere to such guidelines in their relations with other states. This includes but is not limited to, the basic protection of human rights, promotion of human flourishing, and recognition of the integrity and dignity of each human life. However, all Critics-cum-proponents like d'Aspremont (2022) and Andersen (2022) argued that it is too often imprecise, abstract, and hence cannot always provide specific guidance for particular situations. In addition, there may be no consensus on what the "natural law" is, which invites subjective determination that could be informed by particular cultural or religious precepts and undermine its universality.

According to CLS scholars (Bauman, 2021; Charles, 2017; Henriksen, 2023), international law is not neutral; it represents key states' or players' interests and relative power positions. They say that international legal norms often reinforce the existing balance of power, giving privileged positions to some states at the expense of others being marginalized. This critique calls into question the belief that international law is a neutral arbiter of global justice. Perhaps the most frequent criticism leveled at CLS is that it is much better at demolishing the current legal systems than it is at proffering viable alternatives for working. Critics maintain that where there are workable solutions to identified problems, it should be more forthcoming with them.

Conclusion

This research on theories of international law has highlighted the myriad perspectives on what constitutes the foundation and development of such a wide-ranging subject. Thus far, the review of diverse theories has provided insights into the foundational principles, normative structures, and philosophical bases for creating and applying international law.

Starting with the dominant theories of natural law, positivism, and legal realism, each has its own lens through which scholars and practitioners interpret the nature of international legal norms and how authoritative they may be. Natural law emphasizes placing moral universals at the heart of international law, holding that human beings have certain rights and obligations by nature. On the other hand, positivism states that international law finds its validity in the consent and recognition of states through state practices and customs. Legal realism poses a pragmatic perspective, given the power relations, state interests, and political motives that may affect the application of norms under international law. Various theories of international law can be seen as additive, in the sense that each provides a rich tapestry of conceptual frameworks explaining the sources, validity, and efficiency of international legal norms. However,

against this background, each has considerable strengths and weaknesses. Together, they offer an interesting insight into the way law, politics, morality, and the use of power interrelate in the international plane. It is only through interdisciplinary and inclusive approaches focused on a variety of theoretical perspectives that future challenges and opportunities in the field of international law can be adequately met with the continuing evolution of the international legal landscape.

Acknowledgments

The author thanks everyone who helped with the study, both actively and passively, for offering insightful commentary and data. I also appreciate my colleagues, Mr. Uriah G. Bailey and Dr. Isaac P. Podah, who keep me academically motivated. Additionally, I will always be appreciative to the Adventist University of West Africa for giving me the opportunity to succeed during my academic career. Above all, I thank God, the source of wisdom and knowledge, for his guidance.

References

Albrecht, H. (2021). Multi-cultural societies and criminal law: How to accommodate cultural diversity? *In Legal Theory and Interpretation in a Dynamic Society*, 335-362. Nomos Verlagsgesellschaft mbH & Co. KG. https://doi.org/10.5771/9783748925842

Andersen, E. (2022). Non-governmental organizations as international law's diplomats. *Research Handbook on Law and Diplomacy*, 191-207. https://doi.org/10.4337/9781789908473.00021

Angier T, Benson, I.T., Retter, M.D. (2020). Natural law and the origins of human rights. In: *The Cambridge Handbook of natural law and human rights*. Cambridge Law Handbooks. Cambridge: Cambridge University Press.

Bauman, R. W. (2021). International law. *Critical Legal Studies*, 151-157.

Billet, B. L. (2007). Introduction: Universal human rights versus cultural relativism. *Cultural Relativism in the Face of the West,* 1-18. https://doi.org/10.1007/978-1-137-11913-1_1

Bowring, B. (2019). Critical legal theory and international law. *Research Handbook on Critical Legal Theory*. https://doi.org/10.4337/9781786438898.00034

Britannica Encyclopaedia (2023). Natural law. *Encyclopedia Britannica*. Retrieved from https://www.britannica.com/topic/natural-law

Charles, J. D. (2017). *Natural law and religious freedom: The role of moral first things in grounding and protecting the first freedom.* Routledge.

d'Aspremont, J. (2022). The custom-making moment in customary international law. In P. Merkouris, J. Kammerhofer, & N. Arajärvi (Eds.), *The theory, practice, and interpretation of customary international law* (pp. 29–39). Cambridge: Cambridge University Press.

Dimock, S. (1999). *The natural law theory of St. Thomas Aquinas.* https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2197761

Dixon, M. (2013). *Textbook on international law*. Oxford University Press

Durkee, M. J., Shlomo Agon, S., & Saliternik, M. (2023). How does international law change? Theories and concepts of legal change. *Proceedings of the ASIL Annual Meeting*, 117, 247-253. https://doi.org/10.1017/amp.2023.73

Franklin, C. N. (2023). A legal cultural "Take" on the legal system of England and Wales. *Handbook on Legal Cultures*, 327-388. https://doi.org/10.1007/978-3-031-27745-0_10

Gaeta, P., Viñuales, J. E., & Zappalà, S. (2020). Individuals and other legal subjects. *Cassese's International Law,* 156-178. https://doi.org/10.1093/he/9780199231287.003.0008

Garg, R. (2020). *International law: Meaning and definitions.* Retrieved from https://blog.ipleaders.in/international-law-meaning-definitions/

Gross, A. A. (2024). International law and diplomacy: a sine qua non of global peace? ISSRA *Journal of Arts, Humanities and Social Studies, 3*(1), pp 1-5, https://doi.org/10.5281/zenodo.10692896

Henriksen, A. (2023). The actors in the international legal system. *International Law*, 59-81. https://doi.org/10.1093/he/9780192870087.003.0004

Hernández, G. (2019). *States as subjects of international law.* 105-130. Oxford University Press

Hernández, G. (2022). States as subjects of international law. *International Law*, 115-143. https://doi.org/10.1093/he/9780192848260.003.0005

Hovell, D. (2022). The elements of international legal positivism. *Current Legal Problems, 75*(1), pp. 71–109, https://doi.org/10.1093/clp/cuac003

Janis, M. W. (1984). Jeremy Bentham and the fashioning of international law. *American Journal of International Law, 78*(2): 405–418. https://doi.org/10.1017/S0002930000208713

Jenks, C. W. (2017). The legal personality of international organizations. In *international legal personality* (pp. 229-238). Routledge.

Kennedy, D., & Klare, K.E. (1984). A bibliography of Critical Legal Studies. *The Yale Law Journal*, pp. 461. https://www.jstor.org/stable/796234

Klabbers, J. (2020). *International law.* Cambridge University Press.

Kokott, J. (2011). States, sovereign equality. *Max Planck Encyclopedia of Public International Law*, 9, 571-585. https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e1113

Korowicz, M. S. (1959). Individuals as subjects of international law. *Introduction to International Law,* 325-389. https://doi.org/10.1007/978-94-011-9226-2_9

Kosik, K. (2021). *Karel Kosík and the dialectics of the concrete*. https://doi.org/10.1163/9789004503243_013

Lears, T. J. (1985). The concept of cultural hegemony: Problems and possibilities. *The American Historical Review, 90*(3) pp. 567-593. https://doi.org/10.2307/1860957

Lee, H. E. & Lee, S. (2010). *Positivism in international law: State sovereignty, self-determination, and alternative perspectives*. Retrieved from https://brill.com/downloadpdf/book/edcoll/9789004379695/BP000002.xml

Musoke, G. (2023). *Subjects of international law and the theories pursuant thereto.* https://www.researchgate.net/publication/374976938_subjects_of_international_law_and_the_theories_pursuant_thereto

Nicholson, R. (2019). Introduction. *Statehood and the State-Like in International Law*, 1-8. https://doi.org/10.1093/oso/9780198851219.003.0001

Nussbaum, M. (2019). *The cosmopolitan tradition: A noble but flawed ideal*. Harvard University Press.

Oloyede, A. (2021). *A critical analysis of the exact scope and nature of state practice and opinio juris in the determination of customary international law*. http://dx.doi.org/10.2139/ssrn.3990326

Orakhelashvili, A. (2001). The position of the individual in international law. *California Western International Law Journal, 31*(2) 241.

Pan, K. (2024). General principles of law as a basis for procedural rules of international organizations. *Chinese Journal of International Law*. https://doi.org/10.1093/chinesejil/jmae009

Parfitt, R., & Craven, M. (2018). Statehood, self-determination and recognition. In: Evans, Malcolm D., ed. *International Law.* Oxford University Press, Oxford, pp. 177-226. https://doi.org/10.1093/he/9780198791836.001.0001

Pavel, C. E. (2021). The international rule of law. *Law beyond the State*, 86-110. https://doi.org/10.1093/oso/9780197543894.003.0004

Saaida, M. B. E. (2023). The Role of Culture and Identity in International Relations. East African *Journal of Education and Social Sciences 4*(1)49-57. Doi: https://doi.org/10.46606/eajess2022v03i06.0255

Scobbie, I. (2010). Wicked heresies or legitimate perspectives? Theory and international law. *International Law*, 58-92. https://doi.org/10.1093/he/9780199565665.003.0003

Shaw, M. (2023). International law. *Encyclopedia Britannica*. Retrieved from https://www.britannica.com/topic/international-law

Udich, J. (2022). Who forges the tools? *Language and Legal Interpretation in International Law*, 76-94. https://doi.org/10.1093/oso/9780190855208.003.0005

United Nations. (1949). *Draft declaration on rights and duties of states with commentaries*. https://legal.un.org/ilc/texts/instruments/english/commentaries/2_1_1949.pdf

Von Hein, J. (2021). Cultural identity and private international law. *In Legal Theory and Interpretation in a Dynamic Society*, 149-168. https://doi.org/10.5771/9783748925842

Warburton, E. (2023). Private nationalism and state developmentalism. *Resource Nationalism in Indonesia,* 176-192. https://doi.org/10.7591/cornell/9781501771965.003.0008