

Critiquing Theoretical Approaches to International Law: Toward a Balanced International Legal Order

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Abstract: *International law stands at the crossroads of power and principle. Realist, state-centric, and Kantian traditions all attempt to explain its reach and its limits, yet each falls prey to characteristic blind spots. This article surveys the three approaches in turn, showing how Realism's focus on survival dismisses law's normative pull, how Statism prizes procedural legitimacy at the expense of substantive justice, and how Kantian Idealism risks licensing coercive interventions in the name of moral progress. Drawing on primary texts and doctrinal illustrations, the paper argues that no single paradigm provides an adequate blueprint for a durable world order. Instead, their composite flaws reveal the pre-conditions any future synthesis must meet: respect for individual rights, a realistic appraisal of power constraints, and an institutional design capable of incremental evolution. By mapping these limitations, the article lays the groundwork for later research without advancing a new grand theory. The analysis proceeds in three parts: first, a reconstruction of each approach's core premises; second, a critique calibrated to the dual concept of peace (negative and positive); and third, a conclusion that distills practical lessons while underlining the continuing utility of the UN Charter and the ICJ Statute as adaptable legal scaffolds.*

Key Words: *International Law; Realism; State-centric Approach; Idealism; Kantian Approach; Negative Peace; Positive Peace.*

Introduction

Debates over war and peace routinely pivot on a single question: can international law, forged in treaties and custom, tame the raw pursuit of power that has marked interstate relations for centuries? Extreme answers abound. Realists caution that law is a fragile façade, destined to crumble when vital interests collide. State-centrists find reassurance in procedural regularity yet shy away from demanding justice. Kantian scholars, by contrast, hold out hope that a confederation of republics will usher in perpetual peace, even if force must be deployed to midwife that

order. Each tradition captures a genuine strand of experience, yet none furnishes a complete account of how law operates (or fails to operate) in the contemporary system. This article therefore adopts a more modest purpose: to restate each approach in its strongest form, to expose its most salient limitations, and to clarify why their combined weaknesses have led many observers either to dismiss international law altogether or to demand unrealistic leaps toward cosmopolitan governance.

In any discussion of peace and the role of law in shaping a peaceful world, it is essential to clarify what we mean by *peace* – both to establish a theoretical foundation and to engage with empirical realities. What is peace, and what kind of peaceful world are we striving to create? It is one thing to imagine a world without war, but quite another to define the nature of the peace that emerges in its absence. Consider, for instance, a world in which all wars have ended: would that automatically constitute peace? If such a world resembled the oppressive silence of 1941, when no one had the strength to resist rising tyranny, can we truly call it peace? Likewise, can an atmosphere in which people refrain from seeking justice, where silence replaces accountability, or where individuals rely passively on courts to assert their rights, be understood as peaceful? Alternatively, consider a society where conformity reigns – where all individuals adhere to the same values, think alike, and act uniformly. Can such homogeneity genuinely be equated with peace? These scenarios, though only a few among many, illustrate the complexity of the concept and caution against simplistic or superficial definitions.

To address this complexity, we can draw on Isaiah Berlin's distinction in *Two Concepts of Liberty* and extend his dual framework to the concept of peace.¹ Just as Berlin differentiates between negative and positive liberty, peace can likewise be understood in two dimensions: *negative peace* and *positive peace*. Negative peace refers to the absence of war, coercion, or threats, while positive peace describes the presence of institutional arrangements that promote justice, socio-economic stability, and collective well-being. In this sense, peace implies a just and stable social order.² The realization of such peace requires more than merely ensuring the absence of conflict; it demands the establishment of stability across

¹ BERLIN, I. Two Concepts of Liberty. In: I. BERLIN. *Four Essays on Liberty*. 1st ed. Oxford, UK: Oxford University Press, 1969, pp. 118-172. ISBN 0-19-281034-0.

² CLAUDE, I. L., Jr. Theoretical Approaches to National Security and World Order. In: J. N. MOORE, F. S. TIPSON and R. F. TURNER, eds. *National Security Law*. 1st ed. Durham, NC: Carolina Academic Press, 1990, pp. 31-32. ISBN 0-89089-367-5.

economic and social domains, alongside the effective institutionalization of justice.

This article builds on that conceptual foundation to evaluate three dominant theoretical approaches to international law – realism, statism, and idealism – in light of both empirical and normative standards. Rather than proposing a new theoretical framework, the article seeks to diagnose the conceptual and normative shortcomings shared by these schools of thought. Such groundwork, it is hoped, will sharpen subsequent inquiry without foreclosing creative solutions.

1 Realism and the realist approach to international law

At first glance, realism carries a name that suggests a sense of superiority over other theories, as it claims to adopt a “realistic” approach to international relations. Although the roots of realism can be traced back to Thucydides’s *History of the Peloponnesian War*, it only emerged as the dominant paradigm in the discipline of international relations after World War II.³ Several fundamental assumptions are central to understanding realism’s approach to international law:⁴

- ✚ Human nature is inherently evil.
- ✚ The primary actors in international politics are not individuals but groups, with the state being the most significant actor within the system.
- ✚ The international system is anarchic, meaning that there is no overarching authority above states. As a result, no entity can guarantee the survival of any state.
- ✚ Due to this anarchic structure, states are engaged in a constant struggle for survival.
- ✚ In light of this struggle for survival, security becomes the primary concern of states, and states are perpetually driven to seek greater power.
- ✚ Consequently, national interest should guide a state’s foreign policy.
- ✚ There is no universal system of values or ethics that can be applied uniformly to all states or peoples.

³ THUCYDIDES. *History of the Peloponnesian War* [online]. 2nd ed. Harmondsworth, UK: Penguin Books, 1972. 648 p. [cit. 2025-05-21]. Penguin Classics. ISBN 0-14-190939-0. Available at: <https://archive.org/details/historyofpelopo000thuc>.

⁴ MORGENTHAU, H. J. *Politics among Nations: The Struggle for Power and Peace*. 5th ed. New York: Alfred A. Knopf, 1978, pp. 4-15. Borzoi Book. ISBN 0-394-50085-7.

Realists, who adhere to these fundamental assumptions, naturally attribute the relative stability of the international system not to law but to *balance of power*.⁵ Then, if any legal rule exists or is to be established, it is not the result of mutual understanding among states or the existence of a universal value system, but rather the product of shared interests. Indeed, following 1945, classical realists emphasized the primacy of national interest, arguing that states should be guided not by legal principles but by the decisions of their leaders and the pursuit of national interests. Meanwhile, structural (neo)realists contended that, due to the anarchic nature of the international system, policymakers would inevitably view international law with skepticism, as legal constraints could limit a state's ability to act in its own best interest in such an environment.⁶ In addition to theorists, many political leaders have also advocated for this realist approach to international law. The following section will provide examples of realist theorists who have shaped this perspective.

For instance, in his seminal work *Politics among Nations*, Hans J. Morgenthau argues that the legislative, judicial, and executive functions of international law are fundamentally inadequate.⁷ Regarding legislation, Morgenthau asserts that:

- ✚ There is no central legislative body (authority);
- ✚ The legislative function is decentralized rather than centralized; and
- ✚ There is no authoritative body to interpret the law.

Unlike domestic politics, the international political system lacks a competent authority capable of creating law. Ultimately, only states possess the power to make law, and there is no higher authority above them. In other words, due to the anarchic nature of the international system, only states can create legal norms, and such norms can only be established with the consent of states. Therefore, the system is decentralized rather than centralized. Additionally, the authority to interpret international law rests solely with states.

⁵ See, for example, WALT, S. M. Alliance Formation and the Balance of World Power. *International Security* [online]. 1985, vol. 9, no. 4, pp. 5-6 [cit. 2025-05-21]. ISSN 1531-4804. Available at: <https://doi.org/10.2307/2538540>.

⁶ As neorealism's founding father, Waltz said: "National politics is the realm of authority, of administration, and of law. International politics is the realm of power, of struggle, and of accommodation." WALTZ, K. N. *Theory of International Politics*. 1st ed. Reading, MA: Addison-Wesley Publishing Company, 1979, p. 113. ISBN 0-201-08349-3.

⁷ MORGENTHAU, H. J. *Politics among Nations: The Struggle for Power and Peace*. 5th ed. New York: Alfred A. Knopf, 1978. 650 p. Borzoi Book. ISBN 0-394-50085-7.

Regarding the judicial function, Morgenthau identifies three major deficiencies within the international legal system. First, there is no system of compulsory jurisdiction. The International Court of Justice (ICJ) can only adjudicate cases involving states that have explicitly consented to its jurisdiction. Second, there is no hierarchical structure among courts within the international system. It remains unclear whether the ICJ holds superior authority over national courts. Given the absence of compulsory jurisdiction, defending the ICJ's supremacy is challenging, and this ambiguity continues to persist. Third, the principle of judicial precedent (*stare decisis*) does not exist in international law. The ICJ is not bound by its previous rulings and it may decide cases independently of its past decisions. In contrast, domestic legal systems typically adhere to the principle of precedent, allowing individuals and legal practitioners to predict judicial outcomes with greater certainty in specific cases.

With respect to the executive function, Morgenthau emphasizes that international law lacks an effective enforcement mechanism to monitor compliance and, if necessary, compel states to adhere to legal norms. In domestic systems, law enforcement agencies are responsible for ensuring the application and enforcement of legal rules. However, in the international system, the United Nations (UN) lacks comparable enforcement powers, and states are generally reluctant to assume such a role themselves. Given these deficiencies in international law, states engaged in a continuous struggle for survival cannot afford to entrust crucial decisions affecting international politics to legal institutions. The absence of a supreme authority capable of creating and enforcing law further underscores the limitations of international law in regulating state behavior.

For this reason, according to the realist approach, states must actively intervene in the policy-making process to secure the most favorable outcomes for themselves. Moreover, since the principle of judicial precedent is not applied in international law, rendering the decisions of the ICJ unpredictable, states find it difficult to reach a consensus on accepting the Court's compulsory jurisdiction or to place full trust in its authority. The ICJ has been granted the discretion to create and interpret legal norms as it deems appropriate. Due to these factors, Morgenthau argues that the most effective means of maintaining order in the international system lies in the establishment and preservation of a balance of power. As he said, "the balance of power and policies aiming at its preservation are not only inevitable, but an essential stabilizing factor in a society of

sovereign nations.”⁸ In his view, effective diplomacy should prioritize the implementation of this balance of power rather than constraining state behavior through adherence to international legal obligations.

In another seminal work, *The Decline of Democratic Politics*, Morgenthau articulates a realist theory that he terms the functional theory of law. Within this framework, he identifies three key weaknesses of *positivist international law*.⁹ First, he contends that law can only function effectively within an established ethical or moral framework. While domestic political systems provide such an ethical foundation, international politics lacks this common moral basis. Morgenthau asserts that law can only be created on the foundation of a shared understanding of moral values and norms. Since no such universal moral consensus exists in the international system, the formation of a coherent body of international law is, in his view, impossible. He further argues that efforts to establish such a legal framework and compel nations to respect it are ultimately futile. Each nation possesses its own distinct moral and ethical system, and as long as there is a conflict between these domestic moral values and the legal norms imposed at the international level, states will be unwilling to fully comply with international law.

Second, international law fails to account for the sociological conditions that characterize the international system. Domestic politics is grounded in power dynamics, where various social groups compete to enhance their influence within the system and thereby maximize their interests. The international system operates in a similar fashion, with states engaged in an ongoing struggle for power. However, international law overlooks this fundamental reality, instead presuming the existence of a peaceful environment where states can coexist harmoniously. Furthermore, international law treats all states as equals, yet such equality does not reflect the actual structure of the international system. The very essence of international politics revolves around the inherent inequalities among states.

Third, positivist legal theory, by recognizing only written law as valid, fails to acknowledge that not all codified laws possess genuine legal

⁸ MORGENTHAU, H. J. *Politics among Nations: The Struggle for Power and Peace* [online]. 1st ed. New York: Alfred A. Knopf, 1949, p. 125 [cit. 2025-05-21]. Borzoi Book. Available at: <https://archive.org/details/in.ernet.dli.2015.74487>.

⁹ MORGENTHAU, H. J. *The Decline of Democratic Politics*. 1st ed. Chicago, IL: University of Chicago Press, 1962, pp. 289-296. *Politics in the Twentieth Century*, vol. 1. ISBN 0-226-53821-4.

authority, while certain unwritten norms within the social sphere can exert significant legal influence. Consequently, the “consent theory” – which holds that states are bound solely by legal obligations to which they have explicitly provided written consent – is, to some extent, fundamentally flawed. This perspective overlooks the complex ways in which customary practices, normative expectations, and unwritten rules shape the behavior of states in the international arena. Morgenthau likewise notes that “the interminable and quite sterile discussions on the foundation of the binding force of international law are evidence of this word-juggling, since this is a problem which, as defined in the positivist terms of mutual consent and the like, is contradictory in itself, and hence insoluble within the framework of positivism. The foundation of the binding force of ‘positive’ law can logically be found, not in this ‘positive’ law itself, but only outside it.”¹⁰

Besides Morgenthau, Edward Hallett Carr also reflected on the interaction between law and politics. In his influential book, *The Twenty Years’ Crisis*, Carr highlights the weaknesses of the international legal system. Similar to Morgenthau’s ideas discussed earlier, Carr emphasizes the deficiencies of international law in terms of legislation, enforcement, and adjudication. The international system lacks an authority capable of both creating international law and enforcing it through sanctions. Additionally, there is no system of compulsory jurisdiction in international law.

Carr argues that the supremacy of treaties and the principle of *pacta sunt servanda* – the notion that treaties must be upheld – are neither an existing reality nor principles that should necessarily be maintained. States often invoke the *rebus sic stantibus* principle and the doctrine of necessity to absolve themselves of international obligations. Under the *rebus sic stantibus* principle, states claim that significant changes have occurred in the conditions under which they signed a treaty, rendering them unable to fulfill their obligations. Similarly, states may argue that certain rules should be disregarded when necessary to ensure the survival of the state and nation, which is referred to as *raison d’état*.¹¹

¹⁰ MORGENTHAU, H. J. *The Decline of Democratic Politics*. 1st ed. Chicago, IL: University of Chicago Press, 1962, p. 291. *Politics in the Twentieth Century*, vol. 1. ISBN 0-226-53821-4.

¹¹ CARR, E. H. *The Twenty Years’ Crisis: 1919 – 1939: An Introduction to the Study of International Relations* [online]. 2nd ed. London: Macmillan, 1946, pp. 181-182 [cit. 2025-05-21]. ISBN 978-1-349-15208-7. Available at: <https://doi.org/10.1007/978-1-349-15208-7>.

Carr rejects an idealistic approach to world politics and criticizes the excessive optimism of liberalism. He both disputes the liberal belief that national interests can be harmonized and dismisses the relevance of the *invisible hand* theory in international relations. Peaceful change can only be achieved through a combination of power politics and law. In this view, a state that has the necessary power and aspires to a dominant role within the system should have its legitimate rights recognized. Law, therefore, should be defined at the intersection of morality and power, and only to the extent that these elements converge.¹²

Following World War II, realism gained prominence as the dominant perspective in international relations, promoting a pragmatic and interest-driven approach to international law. This outlook was particularly influential among American diplomats and policymakers, as reflected in the writings of George F. Kennan and Dean Acheson, both of whom expressed skepticism toward legal idealism and emphasized the primacy of power and security considerations in postwar diplomacy.¹³

In summary, realists approach international law with deep skepticism. They argue that it suffers from structural shortcomings, particularly the absence of centralized legislative, judicial, and enforcement institutions, which makes it unreliable for securing state interests. Even if recognized as genuine law, realists contend that international law becomes problematic when it constrains a state's pursuit of power and survival. For this reason, they oppose the creation of a comprehensive international legal order or a central authority. In addition, they assert that, unlike domestic systems, the international realm lacks the common values necessary to support a unified legal framework. Before turning to the state-centric and idealist approaches, this paper offers a critical reflection on the Realist perspective.

¹² CARR, E. H. *The Twenty Years' Crisis: 1919 – 1939: An Introduction to the Study of International Relations* [online]. 2nd ed. London: Macmillan, 1946, pp. 43-46 [cit. 2025-05-21]. ISBN 978-1-349-15208-7. Available at: <https://doi.org/10.1007/978-1-349-15208-7>.

¹³ See ACHESON, D. Remarks by the Honorable Dean Acheson. *Proceedings of the American Society of International Law at Its Annual Meeting* [online]. 1963, vol. 57, p. 17 [cit. 2025-05-21]. ISSN 2328-4234. Available at: <https://doi.org/10.1017/s0272503700029426>; KENNAN, G. F. *American Diplomacy*. 60th ed. Chicago: University of Chicago Press, 2012. 192 p. ISBN 978-0-226-43148-2; and KENNAN, G. F. Morality and Foreign Policy. *Foreign Affairs* [online]. 1985, vol. 64, no. 2, p. 207 [cit. 2025-05-21]. ISSN 2327-7793. Available at: <https://doi.org/10.2307/20042569>.

2 Critique of the realist approach

First, the excessive pessimism of realists must be highlighted. According to realists, the international system is characterized by an unchanging – and perhaps unchangeable – anarchic structure.¹⁴ This pessimism inevitably leads them to conclude that, like other institutions, international law cannot alter the fundamental characteristics of the international system and international politics. Furthermore, despite their claim that international and domestic politics are entirely separate spheres, realists paradoxically compare the two, using their conclusions to justify the rejection of international law. They expect international law to function similarly to domestic law, with distinct legislative, executive, and judicial branches. Since no single superior authority exists in the international sphere to create, enforce, and sanction violations of legal norms, they argue that an international legal system does not truly exist. From this perspective, legal rules in the international arena exist solely because states consent to them, and their continued validity depends on this consent. Moreover, states are free to invoke these rules when it aligns with their interests and to disregard them when it does not.

However, both the international arena and international law possess a *sui generis* nature. This fundamental flaw in the realist argument becomes evident when examining another of their claims – the assertion that even if international law were possible, it would not be desirable. Rather than merely rejecting international law on the grounds of its impossibility, realists attempt to demonstrate that it cannot be realized because they do not perceive it as something inherently valuable. In reality, the absence of a superior authority above states does not negate the fact that, as Louis Henkin rightly argues, “almost all nations observe almost all principles of international law and almost all of their obligations almost all of the time.”¹⁵ Moreover, the lack of compulsory jurisdiction does not imply the non-existence of international law. Coercion and pressure on states would hinder the establishment of positive peace.

From an ethical standpoint, realism is also problematic. It dismisses the role of individuals in the international system and insists that policy

¹⁴ GILPIN, R. *War and Change in World Politics* [online]. 1st ed. Cambridge, UK: Cambridge University Press, 1981, pp. 9, 48-50 [cit. 2025-05-21]. ISBN 978-0-511-66426-7. Available at: <https://doi.org/10.1017/cbo9780511664267>.

¹⁵ HENKIN, L. *How Nations Behave: Law and Foreign Policy*. 2nd ed. New York: Columbia University Press. 1979, p. 47. ISBN 0-231-04757-6.

should be guided by the concept of national interest – a notion that cannot be objectively defined or universally proven. Ultimately, however, global peace may be achieved by cultivating individuals who are autonomous, capable of realizing their potential, and committed to mutual understanding. In the political sphere, the realist legal approach risks providing policymakers with justifications for pursuing confrontational or aggressive foreign policies.

3 The state-centric approach to international law (statism/legalism)

Although there are certain parallels between the state-centric (statist/ legalist) approach to international law and the realist approach, these perspectives diverge on several critical points. Both approaches agree that the state is the primary actor in the international system. Consequently, concepts such as “state interest” and “national interest” hold significant importance in both frameworks, with each emphasize the state rather than the individual as the focal point in value-based assessments.

However, the state-centric approach does not share the extreme pessimism characteristic of realism. Therefore, it can be concluded that “all realists are statist, but not all statist are realists.”¹⁶ Naturally, these differences also shape how each approach views international law. To illustrate the state-centric perspective, the following section examines the contributions of Hedley Bull and Thomas M. Franck.

Hedley Bull, widely regarded as a leading figure of the British School (English School), argues in his seminal work *The Anarchical Society* that while anarchy is the fundamental characteristic of the international system, this does not preclude the existence of an international society. As he writes, “order is part of the historical record of international relations; and in particular, that modern states have formed, and continue to form, not only a system of states but also an international society.”¹⁷ This society, as Bull both analyzes and advocates, is fundamentally a *society of states*. Bull maintains that the state remains the central actor in the international system, and any meaningful development must occur within

¹⁶ TESÓN, F. R. The Kantian Theory of International Law. *Columbia Law Review* [online]. 1992, vol. 92, no. 1, p. 72 [cit. 2025-05-21]. ISSN 1945-2268. Available at: <https://doi.org/10.2307/1123025>.

¹⁷ BULL, H. *The Anarchical Society: A Study of Order in World Politics*. 3rd ed. Basingstoke; New York: Palgrave Macmillan, 2002, pp. 22-23. ISBN 978-0-333-98587-8.

this established framework. In his view, the foremost concern for states is not the pursuit of justice, but the preservation of *stability* and *order*.

Bull's analysis focuses on how such relative stability can be sustained within an inherently anarchic environment. Among the mechanisms that support this stability, the balance of power plays a crucial role. International law, too, serves as a vital instrument in maintaining order. Although Bull does not contend that international law alone is capable of creating a fully ordered society of states, he considers it one of the essential pillars upon which such a system can be built. Bull does not believe that international law alone can establish a well-ordered society of states at this stage of history, however, he regards it as one of the foundational pillars of such a system. Bull's approach is sometimes classified under either Realist or Liberal theory, since he recognizes the condition of anarchy but also emphasizes that states operate within a norm-governed international society. Reflecting this view, Brown and Ainley write that Bull's theory "takes place under conditions of anarchy, but in an 'anarchical society'; states act within a system of norms which, most of the time, they regard as constraining."¹⁸ This captures both the Realist focus on anarchy and state interest, and the Liberal recognition of rules and obligations. Given that it eschews both the deep pessimism of realism and the individual-centered focus of liberal theories, this approach aligns more readily with the statist/legalist tradition.

Thomas M. Franck is another prominent scholar who represents the state-centric approach to international law. In his influential work *The Power of Legitimacy among Nations*, Franck poses the critical question of why states follow weak rules. In response, he argues that states respect international law because of the *legitimacy* embedded within the international system. According to Franck, legitimacy fundamentally stems from the belief that a specific legal rule has been created in accordance with an established legal process.¹⁹ Thus, it can be concluded that Franck conceptualizes legitimacy primarily through the lens of legal processes. However, similar to Bull's ideas, Franck also incorporates the notion of a community of states in his analysis. He contends that states seek membership in this community – or at the very least, wish to avoid exclusion from it –

¹⁸ BROWN, Ch. and K. AINLEY. *Understanding International Relations*. 3rd ed. Basingstoke; New York: Palgrave Macmillan, 2005, p. 51. ISBN 978-1-4039-4664-5.

¹⁹ FRANCK, T. M. *The Power of Legitimacy among Nations* [online]. 1st ed. New York: Oxford University Press, 1990, p. 24 [cit. 2025-05-21]. ISBN 978-0-19-772024-0. Available at: <https://doi.org/10.1093/oso/9780195061789.001.0001>.

which explains why even the most powerful states demonstrate respect for international rules.

Franck identifies four key indicators by which the legitimacy of international legal rules can be assessed: *determinacy*, *symbolic validation*, *coherence*, and *adherence*. Determinacy refers to the clarity and precision of a legal rule. The more clearly a rule defines its scope and application, the more likely it is to encourage compliance. Franck cautions against both vagueness and oversimplification, calling for “sophist rules” that are nuanced yet understandable. For example, he criticizes Article 2(4) of the UN Charter for lacking determinacy due to its ambiguity about the permissible use of force. Symbolic validation concerns the use of meaningful symbols such as the UN flag to reinforce legal authority. Symbols, however, only enhance legitimacy when they reflect the actual credibility and effectiveness of the institution they represent; otherwise, they risk becoming hollow. Coherence requires both internal consistency within a rule and external harmony with related legal norms and precedents. A rule gains legitimacy when its purpose aligns with its application and fits within the broader legal system. Finally, adherence involves conformity with the recognized procedures and normative hierarchies that govern lawmaking. New rules must be created and interpreted in a way that respects foundational instruments such as the UN Charter. In short, legitimacy stems not just from a rule’s content but also from how it is embedded in, and validated by, the legal system as a whole.²⁰

In addition to explaining how the legitimacy of international rules is determined, Franck also argues that the international legal system should be grounded in the criterion of legitimacy rather than justice. To support this claim, he offers two key reasons: *operational* and *theoretical*. The operational reason posits that justice holds relevance and meaning primarily in relationships between individuals, making the pursuit of justice more appropriate within domestic legal systems rather than in the international arena. The theoretical reason acknowledges that, although there is a connection between justice and legitimacy, they are fundamentally distinct concepts. Consequently, much like Bull, Franck contends that the primary concern of states within the international system should

²⁰ FRANCK, T. M. *The Power of Legitimacy among Nations* [online]. 1st ed. New York: Oxford University Press, 1990, pp. 31, 92, 127, 147-148, 184 [cit. 2025-05-21]. ISBN 978-0-19-772024-0. Available at: <https://doi.org/10.1093/oso/9780195061789.001.0001>.

not be the realization of justice but rather the maintenance of legitimacy and international order.

4 Critique of the state-centric approach

The state-centric approach to international law may offer a methodological advance over realism, but it still requires critical examination, particularly regarding its potential to support global peace. It retains realism's state-centered worldview and the ethic of *raison d'état*, thereby excluding individual ethics and limiting engagement with human rights and humanitarian law.

Bull's insight into the coexistence of anarchy and society in international relations is valuable, yet his broader theory poses challenges. His "society of states" not only rests on state primacy but also implicitly endorses a selective, aristocratic international order. In this framework, only certain civilizations are represented, narrowing the concept's inclusivity and limiting its contribution to legal development. Moreover, Bull's complete exclusion of justice from international law is difficult to defend.

Franck's theory of legitimacy provides important insights but also requires critical scrutiny. First, he links legitimacy to procedural compliance – rules created through existing norms are seen as binding. Yet this view neglects the intentions of political leaders and overlooks historical cases where procedurally legitimate regimes coexisted with profound injustice. This highlights a weakness in his framework: procedural legitimacy alone may not sustain the moral authority of law. Second, Franck presumes a stable system of rules accepted by states, but such consensus is far from certain. Even if such a system exists, he does not address how it evolves. This omission excludes legal transformation and ignores the dynamic nature of law. Events like the Nuremberg and Tokyo trials and the recognition of individual criminal responsibility in international law demonstrate that legal change is both real and necessary. Third, Franck's criteria for legitimacy (determinacy, symbolic validation, coherence, and adherence) are inherently subjective. States may interpret these differently, resulting in competing understandings of legitimacy and weakening the framework's universality. Fourth, like Bull, Franck adopts the logic of a society of states guided by *raison d'état*. By excluding individuals and their ethical claims, his theory risks alienating the broader human community, undermining international law's legitimacy and reach. Fifth, Franck omits justice as a foundational component of legitimacy. While he admits that legitimacy is "a crucial factor [...] in the capacity of any rule to

secure compliance when, as in the international system, there are no other compliance-inducing mechanisms,”²¹ he fails to integrate justice into his theory. This inconsistency undermines his argument and leaves a significant gap.

In conclusion, the state-centric approach has serious limitations. Without integrating justice – especially in its positive social and economic dimensions – it cannot offer a sustainable path to global peace. A selective society of states may succeed in coordinating on issues such as health, communication, or the environment, but it cannot create a comprehensive and enduring legal order that reflects the moral aspirations of humanity.

5 Idealism and the Kantian approach to international law

There are scholars, policymakers, and legal experts who criticize both realism and the state-centric legal approach, advocating instead for grounding international law fundamentally in liberalism. In contrast to the realist and statist paradigms, liberal thinkers emphasize a different set of premises about how law and cooperation operate globally. The core assumptions of the liberal approach to international relations can be summarized as follows:²²

- ✚ Human nature is inherently good, and human beings are capable of moral and intellectual improvement.
- ✚ Environmental conditions contribute to aggression or malevolent behavior in individuals.
- ✚ Both individuals and environmental conditions – and, consequently, the international system as a whole – can evolve and improve over time.
- ✚ Progress can be achieved through the application of reason and the establishment of effective institutions.
- ✚ While conflict exists among states, there is also significant potential for cooperation, and this potential can be expanded through deliberate efforts.

²¹ FRANCK, T. M. Legitimacy in the International System. *American Journal of International Law* [online]. 1988, vol. 82, no. 4, p. 706 [cit. 2025-05-21]. ISSN 2161-7953. Available at: <https://doi.org/10.2307/2203510>.

²² See, for example, MORAVCSIK, A. Taking Preferences Seriously: A Liberal Theory of International Politics. *International Organization* [online]. 1997, vol. 51, no. 4, pp. 516-524 [cit. 2025-05-21]. ISSN 1531-5088. Available at: <https://doi.org/10.1162/002081897550447>.

- ✚ Foreign policy and domestic policy are interconnected and influence one another.
- ✚ Individuals and institutions are important actors within the international system, alongside states.
- ✚ The existence of universal ethical values can be acknowledged and upheld in international relations.

However, divergent interpretations of liberalism's core assumptions have led international relations and legal scholars to develop multiple strands of liberal thought. As such, liberalism in these disciplines cannot be regarded as a single, unified doctrine. Among these strands, idealism – often viewed as the most ambitious or even naive form – offers the most radical expression of liberal principles. The following discussion will therefore focus on the Kantian approach to international law, a distinct manifestation of idealist thinking within legal theory.

Since the 1990s, Kantian thinkers such as Anne-Marie Slaughter (Burley) and Fernando R. Tesón have been particularly active and influential in the field of international law. According to these scholars, at this stage in history, any theory of international law should be based not on the state or state-centered ethics but on the individual and individual ethics. The starting point for explaining such an approach can be found in Kant's political writings. This legal perspective seeks to link domestic politics with international politics, rejecting the realist notion that considers these two realms as entirely separate. The "black box" metaphor, often used to describe realist thinking, should be set aside. In this era, states can no longer be viewed as black boxes.²³ Developments and attitudes within states' domestic politics have influenced and will continue to influence their approach to international law.

Kantian international legal scholars frequently refer to Kant's essay *Perpetual Peace*, where he outlines certain *preliminary* and *definitive* conditions for achieving peace in the international system. Idealist legal scholars and international relations experts interpret these preliminary and definitive conditions as political recommendations in their efforts to develop a new approach to international law. According to Kant's prelim-

²³ For the "black box" metaphor see, for example, TALIAFERRO, J. W., S. E. LOBELL and N. M. RIPSAN. Introduction: Neoclassical Realism, the State, and Foreign Policy. In: S. E. LOBELL, N. M. RIPSAN and J. W. TALIAFERRO, eds. *Neoclassical Realism, the State, and Foreign Policy* [online]. 1st ed. Cambridge, UK: Cambridge University Press, 2009, pp. 17-18 [cit. 2025-05-21]. ISBN 978-0-511-81186-9. Available at: <https://doi.org/10.1017/cbo9780511811869.001>.

inary conditions, the international system must adhere to the following principles:²⁴

- ✚ No peace treaty that implicitly contains conditions for a future war should be considered valid.
- ✚ No independent state, whether large or small, should be acquired by another state through inheritance, exchange, purchase, or gift.
- ✚ Standing armies should be gradually abolished.
- ✚ No state should incur debt for purposes related to its foreign affairs.
- ✚ No state should forcibly interfere in the constitution and governance of another state.
- ✚ No state should commit acts during war that would undermine mutual trust, making future peace impossible.

Some realist thinkers argue that Kant believed the mere adherence to international rules, particularly his preliminary articles, would suffice to establish a just and peaceful order. These critiques point to the procedural and legalistic optimism in Kant's early conditions, which they view as insufficient to account for power politics and strategic behavior.²⁵ However, as Tesón emphasizes, limiting the discussion to these points risks equating Kant's approach with the state-centric perspective. As their name implies, these are only *preliminary* provisions designed to pave the way for lasting peace within the system. For idealists, the establishment of a new political and legal framework also requires adherence to Kant's definitive conditions. According to these conditions:²⁶

- ✚ All states must have republican constitutions;
- ✚ International law must be grounded in a federation of free states; and

²⁴ KANT, I. Toward Perpetual Peace: A Philosophical Sketch. In: P. KLEINGELD, ed. *Toward Perpetual Peace and Other Writings on Politics, Peace, and History: Immanuel Kant* [online]. 1st ed. New Haven: Yale University Press, 2006, pp. 67-71 [cit. 2025-05-21]. Rethinking the Western Tradition. ISBN 978-0-300-12810-9. Available at: <https://doi.org/10.12987/9780300128109-012>.

²⁵ See, for example, DOYLE, M. W. Liberalism and World Politics. *American Political Science Review* [online]. 1986, vol. 80, no. 4, pp. 1158-1161 [cit. 2025-05-21]. ISSN 1537-5943. Available at: <https://doi.org/10.2307/1960861>.

²⁶ KANT, I. Toward Perpetual Peace: A Philosophical Sketch. In: P. KLEINGELD, ed. *Toward Perpetual Peace and Other Writings on Politics, Peace, and History: Immanuel Kant* [online]. 1st ed. New Haven: Yale University Press, 2006, pp. 74-85 [cit. 2025-05-21]. Rethinking the Western Tradition. ISBN 978-0-300-12810-9. Available at: <https://doi.org/10.12987/9780300128109-012>.

- ✚ Cosmopolitan law should be limited to the principles of universal hospitality.

According to Kant, domestic and international politics cannot be isolated from one another. A civil constitution is essential for a state, and republican states are relatively more peaceful for at least two reasons. First, in a republican regime, politicians must obtain the consent of the people before engaging in war. The public, aware that they will bear the costs of war through their resources and lives, is less likely to support military conflicts. As a result, gaining public approval is not easy, making it relatively difficult for a republican regime to initiate war. Second, citizens who respect the rights of individuals within their own country will inevitably respect the free will of individuals in other republics. In other words, republics externalize their core values and principles.

Since the 1990s, scholars such as Michael Doyle, Bruce Russett, and John M. Owen have argued that republics have not waged war against one another for the past two centuries, thus supporting the *democratic peace theory*.²⁷ According to this perspective, Kant was correct in asserting that domestic politics influences international politics. Democracies have succeeded in creating a unique peace among themselves, and once all states in the system become democratic, world peace will inevitably be achieved. In fact, Kant believed that republican states (and the confederation they form) could embody and fulfill his *categorical imperatives*. These imperatives include the following:²⁸

- ✚ Individuals must act according to the principle of universalizability – that is, the ethical principles governing their behavior should be applicable universally;
- ✚ Individuals must regard each other not merely as means to an end but as ends in themselves;
- ✚ Individuals must create a society in which both individual and collective moral autonomy are respected and upheld.

²⁷ See, for example, OWEN, J. M. How Liberalism Produces Democratic Peace. *International Security* [online]. 1994, vol. 19, no. 2, pp. 87-125 [cit. 2025-05-21]. ISSN 1531-4804. Available at: <https://doi.org/10.2307/2539197>.

²⁸ GREGOR, M. ed. *Kant: Groundwork of the Metaphysics of Morals* [online]. 1st ed. Cambridge, UK: Cambridge University Press, 1998. 76 p. [cit. 2025-05-21]. Cambridge Texts in the History of Philosophy. ISBN 978-0-511-80959-0. Available at: <https://doi.org/10.1017/cbo9780511809590>.

What specific policy recommendations can be made to realize a Kantian understanding of law? For example, Anne-Marie Slaughter (Burley) published works on *liberal internationalism* and *the Act of State doctrine*. Slaughter argues that a liberal state should treat other liberal states differently from non-liberal states. Accordingly, she seeks to develop a transnational legal theory that focuses not only on the relationship between states and individuals but also on interactions among individuals themselves. From this perspective, the courts of a liberal state should apply domestic law in disputes involving both their own citizens and individuals from other liberal states, as well as in cases between individuals from different liberal states. This would create a distinct “legal zone” among liberal states. Conversely, courts should refuse to adjudicate disputes between citizens of liberal and non-liberal states. Such relationships would be considered outside the scope of legal jurisdiction, with any arising issues to be resolved through political means.

The Act of State doctrine can play a role in this process. According to this doctrine, *State A* cannot try *State B* in its own courts for actions carried out by *State B* under its sovereign authority within its own territory. This principle, which asserts that courts should not and cannot intervene in political matters, provides governments with the flexibility to resolve disputes through diplomatic channels. Slaughter believes that this policy would gradually exclude non-liberal states from the legal zone and pressure them to comply with rules established by liberal states.²⁹ The European Union is widely recognized as a paradigmatic example of legalized and constitutionalized international cooperation. The creation of this specific legal zone illustrates the liberal vision of supranational governance anchored in law. As Slaughter and her colleagues observe, “much institutionalized cooperation has taken an increasingly ‘legalized,’ ‘judicialized’ or constitutional form. The most striking story in this regard remains ‘the community of law’ constructed by the European Court of Justice together with national courts of the European member states.”³⁰

²⁹ BURLEY, A.-M. Law among Liberal States: Liberal Internationalism and the Act of State Doctrine. *Columbia Law Review* [online]. 1992, vol. 92, no. 8, pp. 1907-1996 [cit. 2025-05-21]. ISSN 1945-2268. Available at: <https://doi.org/10.2307/1123016>.

³⁰ SLAUGHTER, A.-M., A. S. TULUMELLO and S. WOOD. International Law and International Relations Theory: A New Generation of Interdisciplinary Scholarship. *American Journal of International Law* [online]. 1998, vol. 92, no. 3, p. 370 [cit. 2025-05-21]. ISSN 2161-7953. Available at: <https://doi.org/10.2307/2997914>.

Another significant scholar who seeks to define and develop the Kantian approach to international law is Fernando R. Tesón. He challenges the idea that states consent to law merely out of self-interest and highlights the parallels between the realist approach in international relations and legal positivism. Rejecting realism's claim that international ethics and universal common values cannot exist, Tesón concludes that "realism, which is both ethically and theoretically flawed, must be rejected."³¹ He argues that a new legal approach can be grounded in Kant's ideas and explains that its defining characteristic is its foundation in "normative individualism."³² Believing that Kant had anticipated the advancements in human rights that emerged in the 20th Century, Tesón asserts that this legal approach also provides concrete policy recommendations that can be implemented in the current international system. Accordingly, Tesón calls for the following measures: compulsory jurisdiction in international law, restricting the membership in the United Nations to democratic states, and the establishment of an international society composed of "free states."³³

6 Critique of the Kantian approach

The Kantian approach to international law has several aspects that warrant criticism. Although based on the individual and ethics, it overlooks the importance of existing systemic structures. A sound legal approach must consider the interaction between system and actor, and the reciprocal influence between structures and individuals. Ignoring the anarchic nature of the international system and the role of the state, the Kantian approach ascribes undue faith in individual capacity and intentions.

Liberalism should account for both the strengths and limitations of individuals. Although Kant centers his theory on the individual, he is not naïvely optimistic. He notes, "the human being is an animal which, when he lives among others of his own species, needs a master," adding that

³¹ TESÓN, F. R. Realism and Kantianism in International Law. *Proceedings of the Annual Meeting (American Society of International Law)* [online]. 1992, vol. 86, pp. 113-116 [cit. 2025-05-21]. ISSN 2169-1118. Available at: <https://doi.org/10.1017/s0272503700094441>.

³² TESÓN, F. R. The Kantian Theory of International Law. *Columbia Law Review* [online]. 1992, vol. 92, no. 1, p. 54 [cit. 2025-05-21]. ISSN 1945-2268. Available at: <https://doi.org/10.2307/1123025>.

³³ TESÓN, F. R. The Kantian Theory of International Law. *Columbia Law Review* [online]. 1992, vol. 92, no. 1, pp. 99-102 [cit. 2025-05-21]. ISSN 1945-2268. Available at: <https://doi.org/10.2307/1123025>.

this master “must also be found in the human species.”³⁴ Nonetheless, Kantian and idealist thinkers often draw overly optimistic conclusions, assuming that institutional reform alone can resolve systemic problems. As John Mearsheimer argues, liberal institutionalism wrongly assumes that human-designed institutions can constrain power politics in an anarchic world.³⁵

The belief that a society of democratic states can achieve perpetual peace should also be questioned. Kant’s republican regime may not correspond to today’s procedural democracies. Moreover, Kant himself acknowledged that peace would be the result of a long historical process. Wars would still occur, and lessons would be necessary. He writes: “if individuals are not subdued by an internal impulse to accept the constraints of social laws, war will produce the same effect from the outside [...] even if accompanied by great hardships.” As Bouterwek noted, “if the bow is bent too far, it breaks; and whoever desires too much will attain nothing.”³⁶ The idealist belief that systemic change can be achieved quickly through a coalition of democracies is misleading. It not only influences legal theory but also provides justification for foreign policy strategies that conflict with liberal principles. The imposition of democracy by force, in the name of peace, ultimately contradicts liberal values.

Since the 1980s, Kantian-inspired legal thought has often supported normative justifications for intervention. For example, Fernando Tesón argued, “whatever else was going on, the war against Iraq had an unmistakable humanitarian component.”³⁷ In a 2005 Carnegie Council debate, he reaffirmed that “the war in Iraq was justified under the humanitarian-intervention doctrine” and claimed that international law could help

³⁴ KANT, I. Idea for a Universal History from a Cosmopolitan Perspective. In: P. KLEINGELD, ed. *Toward Perpetual Peace and Other Writings on Politics, Peace, and History: Immanuel Kant* [online]. 1st ed. New Haven: Yale University Press, 2006, p. 9 [cit. 2025-05-21]. Rethinking the Western Tradition. ISBN 978-0-300-12810-9. Available at: <https://doi.org/10.12987/9780300128109-007>.

³⁵ MEARSHEIMER, J. J. The False Promise of International Institutions. *International Security* [online]. 1994, vol. 19, no. 3, pp. 47-49 [cit. 2025-05-21]. ISSN 1531-4804. Available at: <https://doi.org/10.2307/2539078>.

³⁶ KANT, I. Perpetual Peace: A Philosophical Sketch. In: H. REISS, ed. *Kant: Political Writings* [online]. 2nd ed. Cambridge, UK: Cambridge University Press, 1991, pp. 112-113 [cit. 2025-05-21]. Cambridge Texts in the History of Political Thought. ISBN 978-0-511-80962-0. Available at: <https://doi.org/10.1017/cbo9780511809620.007>.

³⁷ TESÓN, F. R. Ending Tyranny in Iraq. *Ethics & International Affairs* [online]. 2005, vol. 19, no. 2, p. 10 [cit. 2025-05-21]. ISSN 1747-7093. Available at: <https://doi.org/10.1111/j.1747-7093.2005.tb00496.x>.

achieve political and moral goals.³⁸ Although ideals like *sic semper tyrannis* resonate within liberal discourse, they can obscure the real consequences of military action. Given the human cost of such interventions, serious concerns arise about the relationship between liberalism, democracy, and global peace – and why Tesón defends intervention as a means to protect human rights, even when those rights may be further violated in the process.³⁹

Similarly, Anne-Marie Slaughter (Burley) suggests that liberal states can invoke the Act of State doctrine to exclude non-liberal states and form a legal community among themselves. This idea is highly problematic. Who determines what qualifies as liberal, and on what basis? More importantly, such a distinction undermines the liberal commitment to non-discrimination. A legal framework grounded in universal values must begin with individuals, not with states. Discriminating between states inevitably translates into discrimination between individuals, and this does not lead to a humane or principled outcome.

In conclusion, while the Kantian approach offers valuable insights into the long-term pursuit of peace, it suffers from contradictions and theoretical flaws. It often neglects structural realities, misrepresents Kant's own caution, and at times provides intellectual cover for policies that undermine the very ideals it claims to promote.

Conclusion

The realist approach to international law holds that history unfolds in recurring cycles shaped by enduring power structures rather than human agency. In this view, states pursue power over morality, and the international system is governed by survival and strategic imperatives, not ethics. As famously stated, “the strong do what they have the power to do

³⁸ ROTH, K., F. R. TESÓN and P. ARTHUR. Ending Tyranny in Iraq: A Debate. In: *Carnegie Council for Ethics in International Affairs* [online]. 2005-10-06 [cit. 2025-05-21]. Available at: <https://www.carnegiecouncil.org/media/podcast/20051006b-ending-tyranny-in-iraq-a-debate>.

³⁹ For further discussion of Tesón's defense of humanitarian intervention, see also TESÓN, F. R. The Liberal Case for Humanitarian Intervention. *Public Law and Legal Theory Working Paper No. 39* [online]. 1st ed. Florida: Florida State University, College of Law, 2001. 54 p. [cit. 2025-05-21]. Available at: <https://doi.org/10.2139/ssrn.291661>.

and the weak accept what they have to accept.”⁴⁰ Peace, for realists, is a temporary balance; law is a tool for the powerful.

By contrast, the Kantian or idealist perspective envisions peace as the end goal of human progress, grounded in moral philosophy and rational development. Yet it too leans on determinism. While realists claim change is impossible due to structural constraints, idealists believe peace is inevitable. Kant writes, “nature guarantees perpetual peace through the mechanism of human inclinations itself,”⁴¹ implying that war itself may push humanity toward peace. Still, this diminishes the role of human agency and responsibility.

This paper has argued that both realism and idealism, though insightful, are inadequate when rigidly applied to international law. Realism is overly pessimistic and dismisses justice; idealism can justify force in the name of peace and falls into teleological fatalism. The state-centric view, meanwhile, upholds sovereignty but lacks vision for transformation, treating law as subordinate to national interest.

What is needed is an approach that balances principle and pragmatism – one that integrates both normative commitments and structural realities. Law should not serve as a tool of power or as an abstract moral ideal, but as a mechanism for securing both negative and positive peace. Such an approach must be pluralist, functional, and evolutionary, grounded in institutional design and cooperation.

International law remains one of the few universal tools for addressing conflict and injustice. It provides a framework for resolving disputes, regulating behavior, and promoting peaceful coexistence. However, when shaped by ideology (whether realist, statist, or idealist) it loses normative coherence. Realists diminish its value, statist restrict its scope, and idealists may overestimate its reach. Yet international law is neither so rigid as to make justice impossible nor so flexible as to guarantee peace. Its success depends on sustained cooperation and institutional integrity. History, as Gilpin suggests, tends to repeat itself through *cycles* of power

⁴⁰ THUCYDIDES. *History of the Peloponnesian War* [online]. 2nd ed. Harmondsworth, UK: Penguin Books, 1972, p. 402 [cit. 2025-05-21]. Penguin Classics. ISBN 0-14-190939-0. Available at: <https://archive.org/details/historyofpelopo000thuc>.

⁴¹ KANT, I. *Toward Perpetual Peace: A Philosophical Sketch*. In: P. KLEINGELD, ed. *Toward Perpetual Peace and Other Writings on Politics, Peace, and History: Immanuel Kant* [online]. 1st ed. New Haven: Yale University Press, 2006, p. 92 [cit. 2025-05-21]. Rethinking the Western Tradition. ISBN 978-0-300-12810-9. Available at: <https://doi.org/10.12987/9780300128109-012>.

and conflict.⁴² Yet such repetition does not amount to fate. It is shaped by human decisions within enduring systemic constraints. International law provides a means to resist fatalism and to pursue justice within an order that is contested yet capable of evolving.

The legal foundations for this pursuit already exist. The UN Charter and the Statute of the International Court of Justice contain principles and mechanisms capable of supporting a more peaceful world. Although not always enforced or respected, they remain the constitutional core of the legal order. Reform does not require reinvention, but reinvigoration.

International law should not be reduced to power politics nor idealized as flawless. Like all legal systems, it evolves through struggle and negotiation. Its promise lies in its ability to institutionalize cooperation, mediate conflict, and affirm human dignity. Realizing this promise requires more than rhetoric. It requires legal realism in the best sense: awareness of constraints, commitment to ideals, and dedication to justice. As Kant recognized, peace is not a natural state but a political and legal project. It demands institutions and individuals committed to making them work. The future of international law does not lie in deterministic theories or ideological purity, but in critical reflection, principled action, and sustained engagement. If pursued earnestly, international law can help build a world where peace is not only imagined but also advanced through reason, cooperation, and justice. It is the shared responsibility of legal scholars and practitioners alike to contribute to the realization of such a legal order.

References

- ACHESON, D. Remarks by the Honorable Dean Acheson. *Proceedings of the American Society of International Law at Its Annual Meeting* [online]. 1963, vol. 57, pp. 13-15 [cit. 2025-05-21]. ISSN 2328-4234. Available at: <https://doi.org/10.1017/s0272503700029426>.
- BERLIN, I. Two Concepts of Liberty. In: I. BERLIN. *Four Essays on Liberty*. 1st ed. Oxford, UK: Oxford University Press, 1969, pp. 118-172. ISBN 0-19-281034-0.

⁴² GILPIN, R. *War and Change in World Politics* [online]. 1st ed. Cambridge, UK: Cambridge University Press, 1981. 272 p. [cit. 2025-05-21]. ISBN 978-0-511-66426-7. Available at: <https://doi.org/10.1017/cbo9780511664267>.

- BROWN, Ch. and K. AINLEY. *Understanding International Relations*. 3rd ed. Basingstoke; New York: Palgrave Macmillan, 2005. 294 p. ISBN 978-1-4039-4664-5.
- BULL, H. *The Anarchical Society: A Study of Order in World Politics*. 3rd ed. Basingstoke; New York: Palgrave Macmillan, 2002. 329 p. ISBN 978-0-333-98587-8.
- BURLEY, A.-M. Law among Liberal States: Liberal Internationalism and the Act of State Doctrine. *Columbia Law Review* [online]. 1992, vol. 92, no. 8, pp. 1907-1996 [cit. 2025-05-21]. ISSN 1945-2268. Available at: <https://doi.org/10.2307/1123016>.
- CARR, E. H. *The Twenty Years' Crisis: 1919 – 1939: An Introduction to the Study of International Relations* [online]. 2nd ed. London: Macmillan, 1946. 243 p. [cit. 2025-05-21]. ISBN 978-1-349-15208-7. Available at: <https://doi.org/10.1007/978-1-349-15208-7>.
- CLAUDE, I. L., Jr. Theoretical Approaches to National Security and World Order. In: J. N. MOORE, F. S. TIPSON and R. F. TURNER, eds. *National Security Law*. 1st ed. Durham, NC: Carolina Academic Press, 1990, pp. 31-45. ISBN 0-89089-367-5.
- DOYLE, M. W. Liberalism and World Politics. *American Political Science Review* [online]. 1986, vol. 80, no. 4, pp. 1151-1169 [cit. 2025-05-21]. ISSN 1537-5943. Available at: <https://doi.org/10.2307/1960861>.
- FRANCK, T. M. Legitimacy in the International System. *American Journal of International Law* [online]. 1988, vol. 82, no. 4, pp. 705-759 [cit. 2025-05-21]. ISSN 2161-7953. Available at: <https://doi.org/10.2307/2203510>.
- FRANCK, T. M. *The Power of Legitimacy among Nations* [online]. 1st ed. New York: Oxford University Press, 1990. 303 p. [cit. 2025-05-21]. ISBN 978-0-19-772024-0. Available at: <https://doi.org/10.1093/oso/9780195061789.001.0001>.
- GILPIN, R. *War and Change in World Politics* [online]. 1st ed. Cambridge, UK: Cambridge University Press, 1981. 272 p. [cit. 2025-05-21]. ISBN 978-0-511-66426-7. Available at: <https://doi.org/10.1017/cbo9780511664267>.
- GREGOR, M. ed. *Kant: Groundwork of the Metaphysics of Morals* [online]. 1st ed. Cambridge, UK: Cambridge University Press, 1998. 76 p. [cit. 2025-05-21]. Cambridge Texts in the History of Philosophy. ISBN

- 978-0-511-80959-0. Available at: <https://doi.org/10.1017/cbo9780511809590>.
- HENKIN, L. *How Nations Behave: Law and Foreign Policy*. 2nd ed. New York: Columbia University Press. 1979. 400 p. ISBN 0-231-04757-6.
- KANT, I. Idea for a Universal History from a Cosmopolitan Perspective. In: P. KLEINGELD, ed. *Toward Perpetual Peace and Other Writings on Politics, Peace, and History: Immanuel Kant* [online]. 1st ed. New Haven: Yale University Press, 2006, pp. 3-16 [cit. 2025-05-21]. Rethinking the Western Tradition. ISBN 978-0-300-12810-9. Available at: <https://doi.org/10.12987/9780300128109-007>.
- KANT, I. Perpetual Peace: A Philosophical Sketch. In: H. REISS, ed. *Kant: Political Writings* [online]. 2nd ed. Cambridge, UK: Cambridge University Press, 1991, pp. 93-130 [cit. 2025-05-21]. Cambridge Texts in the History of Political Thought. ISBN 978-0-511-80962-0. Available at: <https://doi.org/10.1017/cbo9780511809620-007>.
- KANT, I. Toward Perpetual Peace: A Philosophical Sketch. In: P. KLEINGELD, ed. *Toward Perpetual Peace and Other Writings on Politics, Peace, and History: Immanuel Kant* [online]. 1st ed. New Haven: Yale University Press, 2006, pp. 67-109 [cit. 2025-05-21]. Rethinking the Western Tradition. ISBN 978-0-300-12810-9. Available at: <https://doi.org/10.12987/9780300128109-012>.
- KENNAN, G. F. *American Diplomacy*. 60th ed. Chicago: University of Chicago Press, 2012. 192 p. ISBN 978-0-226-43148-2.
- KENNAN, G. F. Morality and Foreign Policy. *Foreign Affairs* [online]. 1985, vol. 64, no. 2, pp. 205-218 [cit. 2025-05-21]. ISSN 2327-7793. Available at: <https://doi.org/10.2307/20042569>.
- MEARSHEIMER, J. J. The False Promise of International Institutions. *International Security* [online]. 1994, vol. 19, no. 3, pp. 5-49 [cit. 2025-05-21]. ISSN 1531-4804. Available at: <https://doi.org/10.2307/2539078>.
- MORAVCSIK, A. Taking Preferences Seriously: A Liberal Theory of International Politics. *International Organization* [online]. 1997, vol. 51, no. 4, pp. 513-553 [cit. 2025-05-21]. ISSN 1531-5088. Available at: <https://doi.org/10.1162/002081897550447>.

- MORGENTHAU, H. J. *Politics among Nations: The Struggle for Power and Peace*. 5th ed. New York: Alfred A. Knopf, 1978. 650 p. Borzoi Book. ISBN 0-394-50085-7.
- MORGENTHAU, H. J. *Politics among Nations: The Struggle for Power and Peace* [online]. 1st ed. New York: Alfred A. Knopf, 1949. 489 p. [cit. 2025-05-21]. Borzoi Book. Available at: <https://archive.org/details/in.ernet.dli.2015.74487>.
- MORGENTHAU, H. J. *The Decline of Democratic Politics*. 1st ed. Chicago, IL: University of Chicago Press, 1962. 431 p. Politics in the Twentieth Century, vol. 1. ISBN 0-226-53821-4.
- OWEN, J. M. How Liberalism Produces Democratic Peace. *International Security* [online]. 1994, vol. 19, no. 2, pp. 87-125 [cit. 2025-05-21]. ISSN 1531-4804. Available at: <https://doi.org/10.2307/2539197>.
- ROTH, K., F. R. TESÓN and P. ARTHUR. Ending Tyranny in Iraq: A Debate. In: *Carnegie Council for Ethics in International Affairs* [online]. 2005-10-06 [cit. 2025-05-21]. Available at: <https://www.carnegiecouncil.org/media/podcast/20051006b-ending-tyranny-in-iraq-a-debate>.
- SLAUGHTER, A.-M., A. S. TULUMELLO and S. WOOD. International Law and International Relations Theory: A New Generation of Interdisciplinary Scholarship. *American Journal of International Law* [online]. 1998, vol. 92, no. 3, pp. 367-397 [cit. 2025-05-21]. ISSN 2161-7953. Available at: <https://doi.org/10.2307/2997914>.
- TALIAFERRO, J. W., S. E. LOBELL and N. M. RIPSAN. Introduction: Neoclassical Realism, the State, and Foreign Policy. In: S. E. LOBELL, N. M. RIPSAN and J. W. TALIAFERRO, eds. *Neoclassical Realism, the State, and Foreign Policy* [online]. 1st ed. Cambridge, UK: Cambridge University Press, 2009, pp. 1-41 [cit. 2025-05-21]. ISBN 978-0-511-81186-9. Available at: <https://doi.org/10.1017/cbo9780511811869.001>.
- TESÓN, F. R. Ending Tyranny in Iraq. *Ethics & International Affairs* [online]. 2005, vol. 19, no. 2, pp. 1-20 [cit. 2025-05-21]. ISSN 1747-7093. Available at: <https://doi.org/10.1111/j.1747-7093.2005.tb00496.x>.
- TESÓN, F. R. Realism and Kantianism in International Law. *Proceedings of the Annual Meeting (American Society of International Law)* [online].

- 1992, vol. 86, pp. 113-118 [cit. 2025-05-21]. ISSN 2169-1118. Available at: <https://doi.org/10.1017/s0272503700094441>.
- TESÓN, F. R. The Kantian Theory of International Law. *Columbia Law Review* [online]. 1992, vol. 92, no. 1, pp. 53-102 [cit. 2025-05-21]. ISSN 1945-2268. Available at: <https://doi.org/10.2307/1123025>.
- TESÓN, F. R. The Liberal Case for Humanitarian Intervention. *Public Law and Legal Theory Working Paper No. 39* [online]. 1st ed. Florida: Florida State University, College of Law, 2001. 54 p. [cit. 2025-05-21]. Available at: <https://doi.org/10.2139/ssrn.291661>.
- THUCYDIDES. *History of the Peloponnesian War* [online]. 2nd ed. Harmondsworth, UK: Penguin Books, 1972. 648 p. [cit. 2025-05-21]. Penguin Classics. ISBN 0-14-190939-0. Available at: <https://archive.org/details/historyofpelopo000thuc>.
- WALT, S. M. Alliance Formation and the Balance of World Power. *International Security* [online]. 1985, vol. 9, no. 4, pp. 3-43 [cit. 2025-05-21]. ISSN 1531-4804. Available at: <https://doi.org/10.2307/2538540>.
- WALTZ, K. N. *Theory of International Politics*. 1st ed. Reading, MA: Addison-Wesley Publishing Company, 1979. 251 p. ISBN 0-201-08349-3.

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