Discussions of international law have often been framed by the extremes—those who dismiss international law as a meaningless sham and others who see it as a tool for dramatically improving international order. Those who question the value of international law argue that because it is so diverse, vague, and contradictory, nations can find a legal basis or justification for just about anything they do. And given the absence of an effective international legal system, it is easy for states to ignore international law when it serves their interests to do so. Although realists usually do not dismiss international law completely, they are inclined to see its role as extremely limited, especially when international law conflicts with the interests of powerful states. Liberals have historically offered a more favorable assessment of international law. Although few contemporary liberals suggest that we can eradicate war or other problems simply by making them illegal, they believe that international law embodies norms widely shared in international society. The existence of these laws does influence the behavior of states in the same ways that domestic laws influence the behavior of individuals. Despite the weaknesses skeptics dwell on, nations usually abide by international law. Constructivists share this more robust view of international law: International law may not prevent states from pursuing their national interests, but it does influence how states define their national interests and what behaviors are considered acceptable in pursuit of national interests.
States are always eager to claim they are acting in accordance with international law. Teams of lawyers in foreign ministries the world over provide detailed legal justifications for almost everything their nations do. Supposed violations of international law are even cited as grounds for using force against other states. But at some levels the whole concept of international law might appear puzzling. International society is anarchic, lacking a central political authority. Unlike domestic politics, there is no higher authority that states feel obligated to obey. This raises the obvious question: How can there be international laws without any international government to make and enforce them? The absence of government would seem to imply the absence of law. In the famous passage from his *Leviathan*, Thomas Hobbes expressed this point of view: “Where there is no common power, there is no law.”¹ This skepticism is never far from the surface in debates about international law: As Goldsmith and Posner note, “international law has long been burdened with the charge that it is not really law.”² Despite the “no law without government” argument, most agree that international law does exist. Modern international law is usually traced to the early seventeenth century when the modern sovereign state emerged from the maelstrom of the Thirty Years War and the Peace of Westphalia (1648). Reacting in part to the horrors of that conflict, Hugo Grotius (1583–1645), sometimes referred to as the father of international law, devised a system of rules specifying acceptable and unacceptable behavior in the conduct of war. Though there was no overarching government, he argued that sovereign states still formed a society or community in which regular interactions took place within the framework of rules and norms of behavior. Some of these rules could be found in formal agreements while others were revealed by the customary behavior. More ambitiously, Grotius argued that states were bound to obey a higher moral code. But where did this code come from? One possible source was God (or religious texts). Perhaps because he lived through the Thirty Years War and witnessed the devastation religious conflicts could bring, Grotius preferred a more secular foundation. He argued that human reason allows us to devise a code of moral conduct necessary for the preservation of a civilized community of states. Though he accepted the existence and legitimacy of sovereign states, Grotius provided a vision of a more humane international order in which shared moral values and norms could tame the excesses witnessed during the Thirty Years War. For Grotius there was no necessary contradiction between state sovereignty and international law.³

The debate over international law focuses on its impact and significance, not on its existence. Some remain skeptical that international law offers much of a constraint on state behavior. At the margins and on some relatively insignificant issues international law may influence states, but power and interests usually trump law and justice in international politics on the big issues. Others have a more favorable view, claiming that international law provides not only direct constraints on state behavior, but shapes and embodies the norms that influence how states think about the world and their role in it.
What Is International Law and Where Does It Come From?

Though definitions of international law vary, most characterize it as “the customs, norms, principles, rules and other legal relations among states and other international personalities that establish binding obligations” or the “body of rules which binds states and other agents in world politics with one another.” This is, admittedly, a messy way of thinking about law. Domestic (or municipal) law has the virtue of centralization—it usually originates from easily identifiable government institutions and is enforced by agents of the state. International law is decentralized both in its origins and enforcement.

Historically, international law has focused on states—that is, how states were supposed to behave vis-à-vis other states. The preceding definitions of international law make some allowance for “other” agents, largely because international law over the past few decades has gradually moved beyond a sole focus on states. Human rights, for example, are increasingly part of international law. This area of international law involves rules about how states should behave vis-à-vis their own citizens. Though we will have more to say about this new role for individual rights in international law in a later chapter, at this point it is enough to note that the general strengths and weaknesses of international law are relevant in this area as well.

If there is no international government to pass and enact laws, where do they come from? Article 38 of the Statute of the International Court of Justice identifies four (or five, depending on how one counts) sources of international law. In order of declining significance these are:

1. International conventions, whether general or particular, establishing rules expressly recognized by consenting parties
2. International custom, as evidence of a general practice accepted as law
3. The general principles of law recognized by civilized nations
4. Judicial decisions and the teachings of the most highly qualified publicists of the various nations

*Treaties* and *conventions* are formal documents specifying behaviors that states agree to engage in or refrain from. Some treaties, such as nuclear arms control agreements signed by the United States and Soviet Union during the Cold War, are bilateral (i.e., involving only two nations), whereas others, such as the Nuclear Non-Proliferation Treaty (1968) involve virtually all nations. But whether a treaty involves two or two hundred nations, it obligates signatories to abide by its terms. The difference is in the scope of the treaty, not its nature. Treaties in international law are the equivalent of *contracts* in domestic law. Thus, when we say that a state has violated international law, this assertion is usually accompanied by a reference to the specific treaty or convention whose terms have been violated.

The fact that most international legal obligations derive from treaties and conventions automatically indicates one of the major differences between domestic and international law. Domestic laws are usually binding on everyone. If a state legislature decides to impose a 55 mph speed limit, the law applies to all regardless
of any individual’s approval. Laws are not circulated among citizens for signatures. We do not get to choose which laws apply to us. In international law, nations are only obligated to abide by those treaties and conventions they consent to. E. H. Carr explains that “a treaty, whatever its scope and content, lacks the essential quality of law: it is not automatically and unconditionally applicable to all members of the community whether they assent to it or not.” Thus, international law relies on voluntary consent to a much greater degree than domestic law.

Not all international law is codified in written documents. Practices and norms that states have come to adopt over time and that are routinely observed form an unwritten body of law referred to as **customary law**. Customary law does not require explicit consent like treaties: Consent is inferred from behavior. Sometimes customary rules eventually find their way into actual agreements, but not always. Many laws regarding the conduct of diplomacy, such as diplomatic immunity (about which there will be more to say later), began as customs that evolved gradually over time. It was only with the Vienna Conventions on Diplomatic (1961) and Consular Relations (1963) that these norms acquired the status of written law. The prohibition on slavery and the slave trade was part of international customary law before the formal Slavery Convention of 1926. Until recently, the issue of how far off shore a nation’s sovereignty extended was also a matter of customary law. The limit used to be three miles because this was about as far as a cannon could reach, though it was eventually extended to twelve miles and was codified in the UN Convention on the Law of the Sea (1982). The same convention contained another example of the codifying of custom. In the early 1950s, several South American countries claimed exclusive fishing rights out to 200 miles, which was viewed at the time as violating freedom of the seas beyond the 12-mile limit. In subsequent years, other nations, including the United States, followed suit. The 1982 convention recognized this new norm by specifying a 200-mile exclusive economic zone (EEC).

Interestingly, though customary international law is often more difficult to identify than treaty-based law, it can in exceptional cases be more powerful because it may apply universally, irrespective of state consent. David Bederman provides the example of genocide. Though there is an international convention against genocide, it is possible to argue that genocide is also a violation of customary law. As a result, “two states may not conclude a treaty reciprocally granting themselves the right to commit genocide against a selected group.” The rule against genocide may be one of those “rules of custom that are so significant . . . that the international community will not suffer States to ‘contract’ out of them by treaty.” Similarly, failure to sign the Slavery Convention (1926) would not permit a state to practice slavery.

Though custom should not be overlooked as a source of international law, it remains very difficult to know when a norm has entered the realm of customary international law. How many states, one might wonder, must abide by the norm and for how long before it can confidently be classified as a binding law? It is even harder to gauge when an international custom has reached a level where it becomes binding on all states even if they claim not to accept it, as would be the case with genocide and slavery. Even experts in international law have no clear answer: “How these particular rules of ‘super-custom’ are designated and achieve the exceptionally high level of international consensus they require is a bit of mystery.”

**customary law**: One of the major sources of international law. The fact that states routinely and consistently abide a particular norm is often considered sufficient for that norm to attain the status of law, even if it is not codified in any actual agreements or treaties.
The Weakness of International Law

As we have already noted, the harshest rejections of international law simply dismiss it by definition: since there is no international government, international law does not exist. This argument might be a clever debating strategy, but it does not really help us understand how most people, critics and supporters alike, think about international law. Most critics concede that international law exists. What remains uncertain is its influence in actually shaping the behavior of states. Those who doubt the value of international law make several basic arguments. First, international law is a contradictory and vague mass of agreements and norms that offers few clear guidelines. Second, even if we could specify the contents of international law, the absence of an effective legal system severely limits its impact. Third, to the extent that international law does influence state behavior, it is on issues of relatively minor importance. When it comes to the most pressing issues of international politics involving the great powers, security and war and peace, international law gives way to power and national interests.

Vague and Conflicting Obligations

What exactly is the content of international law? Which behaviors are condoned and which are condemned under existing international law? Even when we rely on written agreements, answers to these questions are not always easy. The first problem is that most nations are parties to literally thousands of treaties, conventions, and other international agreements entered into over decades, if not centuries. Since 1945 more than 40,000 international treaties, agreements, and conventions have been signed throughout the world. It would be unrealistic to expect all of these agreements to be perfectly consistent with one another (indeed, it is not unheard of for the same treaty to contain seemingly contradictory provisions). This lack of consistency sometimes makes it very difficult to even know what a nation’s treaty obligations are. Of course, this is also a problem domestically—legislatures pass laws that contradict other laws already on the books and states might pass laws that are inconsistent with federal law. But on the domestic level there are mechanisms for dealing with conflicts of laws, such as courts that decide which laws take precedence. The problem is much greater at the international level for two reasons: first, the decentralized nature of laws (not only treaties but also nebulous customary law) increases the likelihood of conflicts; and second, the lack of an authoritative legal system makes the resolution of these conflicts problematic.

Treaties create not only problems of conflicts of laws but also vagueness. This is particularly the case when it comes to treaties and conventions signed by many nations. Hans Morgenthau explains what frequently happens when negotiating international agreements: “In order to find a common basis on which all those different national interests can meet in harmony, rules of international law embodied in general treaties must often be vague and ambiguous, allowing all the signatories to read the recognition of their own national interests into the legal text agreed upon.” As with conflicts of laws, vagueness and ambiguity are not unknown in domestic laws. Lawmakers often adopt vague wording in order to get the votes needed to pass
legislation. This is one of the reasons that courts frequently have to interpret laws—if the laws were crystal clear in the first place, interpretation would not be necessary. And to repeat a point that should not need repeating, there is no judiciary to do the same at the international level.

Contradictory and vague laws create dilemmas for even the disinterested observer. For those with a vested interest in a conflict, there is much room for self-serving uses (or abuses) of international law. With references to the right treaties and a generous interpretation of ambiguous wording, critics charge, almost any action can be supported with a plausible legal justification. Foreign ministries in all countries, including the U.S. State Department, employ staffs of very smart lawyers whose job it is to provide a legal rationale for the policies of their government. The number of times when they have been unable to do so can be counted on a few fingers. Nations rarely alter their behavior to conform to international law. It is more likely that nations will twist international law so that it conforms to their behavior.

**No Effective Legal System**

To be meaningful and effective, the laws must be implemented. It is not enough that laws exist; there must be a legal system with the necessary tools and powers to enforce them. And in order for a legal system to work properly, it must enjoy **compulsory jurisdiction**. Carr explains that domestic legal systems are effective because “the jurisdiction of national courts is compulsory. Any person cited before a court must enter an appearance or lose his case by default; and the decision of the court is binding on all concerned.” Individuals charged with crimes do not have the option of failing to appear in court or rejecting its decision. Imagine the state of domestic law if people were free not to appear in court and ignore verdicts they disliked. But this is precisely the state of the international legal system. Among existing international courts, the **International Court of Justice (ICJ)**, also known as the World Court, headquartered in The Hague, Netherlands, is the most important. This court is the judicial branch of the United Nations. Any state (not individuals) can bring a case when it feels its rights under international law have been violated. The ICJ, however, is not a terribly busy court—between 1946 through the end of the 1980s, the court heard fewer than ten cases in each decade. The U.S. Supreme Court hears more cases in just two or three years than the ICJ has heard in almost fifty. Nonetheless, it provides something that at least gives the appearance of an international legal system.

The problem is that nothing compels states to attend trials or abide by the court’s final decision. The Statute of the International Court of Justice (the treaty creating the ICJ) contains an **optional clause** allowing states to choose whether to be subject to the compulsory jurisdiction of the ICJ. Less than one-third of states have accepted the compulsory jurisdiction of the ICJ by signing the optional clause. Even nations that sign the optional clause can specify conditions under which they will not automatically recognize the court’s jurisdiction. When the United States signed the optional clause in 1946, it stipulated reservations so broad as to totally negate the principle of compulsory jurisdiction.

This lack of compulsory jurisdiction can be illustrated with a case involving the United States. During the 1980s, the Reagan administration pursued a controversial
policy of aiding anticommunist rebels fighting to overthrow the Marxist Sandinista government of Nicaragua. In addition to providing money and arms to the “contra” rebels, the United States also mined harbors within Nicaragua’s legally recognized territorial waters. In 1984, Nicaragua asked the ICJ to determine whether U.S. actions violated international law. The United States responded that the ICJ did not have jurisdiction over the matter. The ICJ ruled that it did and would hear the case, issuing a preliminary opinion ordering the United States to cease its mining of Nicaraguan harbors. The United States ignored the order and removed itself from the entire process in January 1985. In 1986, the ICJ ruled in support of Nicaragua, declaring the United States in violation of international law. The United States ignored the court’s ruling. When Nicaragua brought the matter before the United Nations Security Council to have sanctions imposed, the United States exercised its veto. That was pretty much the end of the matter.\textsuperscript{12} The United States is not unique in this respect. In September 2008 Georgia requested an emergency ruling from the World Court against Russia and its military actions in disputed Georgian territory. In the event of a ruling in Georgia’s favor, however, any sanctions would need to be imposed by the UN Security Council. Since Russia enjoys a veto, the likelihood of such sanctions is, to say the least, minimal. To those skeptical of the value of international law, this is perhaps its most critical weakness, because “no legal system can be effective in limiting the activities of its subjects without compulsory jurisdiction over their disputes.”\textsuperscript{13}
The ability of the United States to ignore international law and the decisions of the ICJ in the Nicaraguan case reveals another weakness. Although in principle all states might be equal in the eyes of international law, in practice the application of international law cannot be divorced from considerations of power. Great powers always have the capacity to escape the restrictions imposed by the international law. Of course, even in domestic society the wealthy and powerful can manipulate legal systems to their advantage in ways that the poor cannot. The ideal of equality before the law is rarely achieved in any context. But at the international level this problem is magnified because of the absence of a central authority to coerce great powers into obedience.

In addition to compulsory jurisdiction, a clear judicial hierarchy is another essential element of an effective legal system. Such a hierarchy requires the existence of lower and higher courts with a definite line of command or authority. Higher courts fulfill several functions. First, parties who are unsatisfied with lower court decisions can sometimes appeal to higher courts. Second, when lower courts issue rulings that are contradictory, higher courts decide which ruling has to prevail. Third, the highest courts, such as the Supreme Court in the United States, establish precedents, or interpretations of laws that lower courts are bound to obey. The international legal system does not have an effective legal hierarchy. The ICJ does not stand over national courts in the same way that the U.S. Supreme Court does over lower district or state courts. Although treaties signed and ratified by the United States become the law of the land and acquire the status of domestic law, the U.S. Supreme Court does not have to abide by the decisions of the ICJ. Indeed, in conflicts between the U.S. Constitution and international law, the Constitution prevails: “It is now a well-established principle that neither a rule of customary international law nor a provision of a treaty can abrogate a right granted by the Constitution.” This demonstrates the absence of legal hierarchy in which international law and courts could take precedence over national laws and courts. The U.S. Supreme Court might take the ICJ’s decisions and interpretations into account in its own deliberations, but it does not recognize the ICJ as a superior authority.

**Law and Power**

Historically, realists have been the most skeptical about the value of international law. It is easy to understand why. Realists typically emphasize the fundamental difference between domestic and international politics, namely the absence of a central political authority on the global level. This is the “first fact” of international politics for realists. To the extent that criticisms of international law stress the absence of institutions to create and enforce laws, they reflect this basic realist tendency to see the international realm as distinct from the domestic realm. Realists would also agree with James Brierly’s conclusion that “the fundamental difficulty of subjecting states to the rule of law is the fact that states possess power.”

On the rather mundane day-to-day issues that nations deal with, they may indeed abide by thousands of international laws. But this is not the point. The real test of international law is not whether it constrains relatively weak states on issues of lesser importance. The test is whether it has any impact on the actions of great powers on the pivotal issues of international politics, war and peace, and the use of force. When
national power and interests come into conflict with international law, which prevails? Is there any chance that law trumps power and interests in such cases? For realists, the answer is “no.” And some realists take the argument even further. It is not just that international law will be pushed aside when critical national interests are at stake, but that international law should be ignored if it conflicts with fundamental national interests.

At an even deeper level, realists (and, interestingly, Marxists) sometimes argue that international laws and norms are themselves reflections of power. International law does not just appear out of nowhere. It originates in concrete social-political settings in which power and resources are not equally distributed. The norms and rules that prevail in any society are likely to be consistent with the interests of those with the power to create and enforce them. Most contemporary international law originated in Europe beginning in the 1600s and developed over the course of the last four hundred years. As Peter Malanczuk points out, “most developing countries were under alien rule during the formative period of international law, and therefore played no part in shaping that law.”

As a result, it would be naïve to assume that international law has not been influenced by the particular values and interests of European societies: “Law has the inclination to serve primarily the interests of the powerful. ‘European’ international law, the traditional law of nations, is no exception to this rule.” Such principles as freedom of the seas and the protection of private property no doubt serve the interests of those with the power to use the seas and possess the property. According to Lenin, law (domestic and international) is but the “formulation, the registration of power relations . . . and expression of the will of the ruling class.” On this issue at least, realists would agree with Lenin.

### The Enduring Value of International Law

Defenders of international law appear to have a fairly steep uphill battle to make their case. Most of its weaknesses need to be conceded at the outset: “International law has no legislature . . . there is no system of courts . . . and there is no executive governing authority . . . there is no identifiable institution either to establish rules, or clarify them or see that those who break them are punished.” How does one make a case for international law in the face of this void? There are essentially three arguments advanced by those who see international law as a powerful constraint on state behavior despite the admitted weaknesses. First, critics of international law tend to exaggerate its shortcomings by focusing on a handful of spectacular failures and attacking an unrealistic, almost straw-man, vision of what international law can accomplish. Second, nations almost always abide by international law for many of the same reasons people abide by domestic laws even in the absence of a government. Third, critics tend to underestimate how powerful international laws and norms can be in altering and shaping state behavior.

### The False Lessons of Spectacular Failures

Extreme criticisms of international law as a worthless sham often highlight some of its more spectacular failures, and there are plenty to choose from. A favorite example from the 1920s is the Kellogg-Briand Pact (1928), or the “General Treaty for the Renunciation of War,” formally known as the Kellogg-Briand Pact (1928). The agreement obliged signatories to renounce war as an instrument of policy and to settle their disputes peacefully.
for the Renunciation of War,” which was signed by sixty-five states, including Italy and Japan. The pact obliged signatories to renounce war as an instrument of policy and to settle their disputes peacefully. Though many at the time realized the treaty for what it was—an unenforceable statement of moral aspirations—others actually believed that it could transform international politics. Although the attempt to abolish war by treaty appears silly in retrospect, the failure of the Kellogg-Briand Pact provides a good basis to begin understanding what international law realistically can and cannot accomplish. Even those who think international law is generally effective and worthwhile recognize that it does have limits, as does domestic law (after all, laws prohibiting the production, sale, and consumption of alcohol in the United States during the 1920s and 1930s fared about as well as the attempt to outlaw war).

In thinking about the promise and limits of international law, we need to understand two very different approaches to go about deciding what actions should and should not be illegal. Over the past several centuries, the **natural law tradition** and the **positive law tradition** have shaped thinking about the sources and functions of law, domestic and international. A natural law approach is driven by a moral analysis, whereas a positivist approach rests on a behavioral analysis. A natural law approach begins by identifying an abstract standard of moral absolutes—the delineation of what behaviors are morally right or wrong—and attempts to translate these absolutes into laws and regulations. “Natural lawyers,” according to Lea Brilmayer, “suggested that international law followed from the basic universal principles of morality.”

These moral principles are derived without reference to the actual behavior of people. Morality, after all, is not a popularity contest. If people are already behaving in accordance with these absolutes, so much the better. But what if they are not? In this case, the law becomes a tool for changing the way people behave, sometimes dramatically.

Positivist legal theory adopts a very different approach: “Applied to international law, positivism . . . regard[s] the actual behavior of states as the basis of international law.” Positivists try to identify those norms of behavior that are generally adhered to in the real world. These norms then become the basis for law. In many cases, these behavioral norms are also consistent with moral absolutes. We are fortunate, for example, that laws against murder are consistent with both moral absolutes and actual behavior. But there are also many instances in which behavior and abstract principles diverge. In these cases, the law needs to be reconciled to prevailing behavior. Laws that dictate behaviors at great variance with actual behavior are doomed to failure. Brierly explains that “the real contribution of positivist theory to international law has been its insistence that the rules of the system are to be ascertained from observation of the practice of states and not from a priori deductions.”

One of the earliest positivists, Niccolo Machiavelli (1469–1527) warned of the dangers of excessive moralism: “The gulf between how one should live and one does live is so wide that a man who neglects what is actually done for what should be done learns the hard way to self-destruction.” From a positivist perspective, the purpose of law is not to radically alter most people’s behavior, but rather to punish and alter the behavior of the handful of people who are inclined not to follow these norms.

The problem with treaties such as the Kellogg-Briand Pact is that they attempted to apply a moral standard to states that bore little resemblance to the way statesmen
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actually thought and behaved. Although the signatories of the treaty certainly consented to its terms, there was an almost surreal disconnection between the treaty’s lofty sentiments and the depressing realities of world politics. The logic of Kellogg-Briand was simple: if war was wrong, it should be illegal, case closed. Its goal was to transform the basic dynamics of international politics. It tried to alter political reality rather than work within it. The pact was the international equivalent of domestic laws against alcohol consumption. It should come as no surprise that these laws failed. But it is easy to overlearn the lessons of such failures. It would be a wild exaggeration to use these examples such as Kellogg-Briand to support any sweeping denunciation of international law as a worthless collection of rules, just as the failure of Prohibition cannot be used to support a blanket condemnation of domestic law in general. The point here is simple: We need to have a reasonable expectation of what international law can accomplish. Criticizing international law for failing to achieve the unattainable is a decidedly pointless endeavor.

States Usually Abide by International Law

It is easy to produce a long list of violations of international law. But this proves little. It would be just as easy to create a similarly long list of violations of domestic laws. If laws were never violated, there would not be much of a need for them in the first place. The value of international law does not depend on universal compliance. Occasional violations of law should not be allowed to obscure the frequency with which it is obeyed. Unfortunately, compliance never draws much attention: There are never headlines announcing the millions of people who are not robbed or murdered every day. But an accurate evaluation of international law requires an assessment of both compliance and violation. And virtually everyone agrees with Stanley Michalak’s assessment that “most of the time states do obey international law; most of the time they do get along with their neighbors; and most of the time, they do cooperate on countless issues and problems.”25 And even Hans Morgenthau, a realist who spends a lot of time discussing the weaknesses of international law, concedes “that during the four hundred years of its existence international law has in most instances been scrupulously observed.”26

Why Do States Abide by International Law?

If there is no central enforcement mechanism, why do states abide by international law, even when they might derive some immediate benefits from ignoring it? As with individuals and domestic law, states typically have a variety of motives for abiding by international law. The first set of reasons fall under the rubric of identitive compliance. When we think about why we usually abide by our domestic laws, the most prominent reason is that they embody norms of behavior we agree (i.e., identify) with. How many of us would engage in rape, murder, or theft even if we were certain that we would never be caught or punished? Fortunately, not many. For the vast majority of laws, especially those that seek to protect people from direct harm, the threat of punishment is not the primary reason people comply. Undoubtedly, “some people do in fact obey laws because law-breaking will bring them into unwelcome contact with the police and courts . . . but no community

identitive compliance
The fact that people and nations usually abide with laws not out of fear of punishment but because the laws embody norms that are viewed as right.
could survive only through an ever-present fear of punishment.”

The threat of punishment deters the relatively small number of people who would not be restrained by their own conscience. Similarly, most nations refrain from attacking their weaker neighbors and committing genocide or kidnapping foreign diplomats simply because they think these things are wrong. Though we sometimes say that the strong take what they can and the weak grant what they must, this is simply not the case. The strong could probably take much more than they do. The importance of good conscience should not be underestimated, even in the supposedly cutthroat world of international politics.

States also abide by international law because it is in their interests to do so, which we refer to as utilitarian compliance. Even when some benefit may be gained by violating a law in specific instances, nations recognize that in the long run they benefit from upholding the law. Take an example that sometimes infuriates people—international laws that prohibit nations from trying and punishing foreign diplomats who commit crimes, or diplomatic immunity. Typically, these are relatively harmless but nonetheless annoying violations, such as UN diplomats who rack up tens of thousands of dollars in unpaid parking tickets. But occasionally there are more egregious examples: Foreign diplomats have abused children and killed people in drunk driving accidents without being prosecuted or even arrested. In these cases, the host government has two options: First, it can ask the diplomat’s government to waive their diplomatic immunity; or second, the diplomat can be declared a persona non-grata and expelled. Despite these (admittedly rare) horror stories, it remains in the interest of the United States, and of other countries, to respect the norm of diplomatic immunity. But why? Because U.S. diplomats are stationed all over the world in nations whose laws and legal systems might not be to our liking. Without diplomatic immunity, a U.S. diplomat caught with alcohol or a Playboy magazine in some countries might be subject to draconian punishments and might be tried in a corrupt legal system. Thus, the overall benefits of abiding by diplomatic immunity vastly outweigh the occasional costs.

A related motivation for state compliance with international law is a fear of chaos. There is a value to international law as a whole that transcends such narrow calculations regarding individual laws. States also benefit from the preservation of a certain measure of international order and stability. Even if immediate benefit might be gained by violating a given law, states recognize that they have a more fundamental, long-term interest in upholding the general system of international law. “The ultimate explanation of the binding force of all law,” explains Brierly, “is that man, whether he is a single individual or whether he is associated with other men in a state, is constrained, in so far as he is a reasonable being, to believe that order and not chaos is the governing principle of the world in which he has to live.”

The preservation of order depends on reciprocity—if you expect others to abide by the rules, you need to abide by them yourself. If states begin violating some laws in order to gain an advantage, this encourages other states to do likewise. If the entire system begins to unravel, the costs are almost certain to outweigh the gains from the initial violation.

States also abide by international law because they fear punishment. This might seem odd given the absence of a central political authority to enforce laws and carry out the punishment. The mere fact that there is no centrally imposed punishment does
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**reprisal** An act that is normally a violation of international law but that is permitted as a response to another nation’s violation of international law.

**collective reprisal** Under international law, the ability or obligation for all states to punish those who violate international law (as opposed to only those states whose rights were violated).

not mean there is no punishment; it simply requires that punishment be imposed in a decentralized fashion by other states. International law recognizes a right of reprisal or retaliation—that is, the right of states to take actions that would otherwise be impermissible in response to another state’s violation of international law. For example, when Iranian radicals took U.S. diplomats hostage in 1979 with the approval and support of the Iranian government, this was universally recognized as a violation of the longstanding international law. As a result, the United States had the right to take actions that would normally not be allowed in reprisal, such as seizing Iranian assets in the United States. Furthermore, international law recognizes a right of collective reprisal. Even though it was U.S. diplomats who were taken hostage, all nations had a right to punish Iran. The right to punish is not restricted to the state whose rights were violated because it is the obligation of all states to uphold international law.

The Iranian hostage case provides an example of yet another reason states usually abide by international law: In the event that a state’s rights are violated in the future, other nations are less likely to come to its aid if that state has violated international law in the past. States need to care about their reputations, something Iran would soon find out. Several years after the hostage crisis, Iran found itself embroiled in a bitter war with Iraq during which Iraq used chemical weapons against Iranian targets in clear violation of international law. When Iran protested that its rights were being violated, there was not much sympathy to be found. Nations cannot violate the rights of others and then expect others to care about them when their rights are violated. Thus, nations are usually unwilling to be saddled with the reputation of violating international law for fear that their ability to call on the international community for help in the future will be diminished.

**Liberalism and the Promise of International Law**

Liberals have traditionally seen a greater scope for common interests in international relations than realists. But like realists, liberals recognize that the uncertainties and insecurities of anarchy make it difficult for states to cooperate to achieve their common interests. This is one of the valuable functions of international law. Because nations usually do comply, international law gives states some reasonable assurance, if not a guarantee, about how other states will behave. International law lessens some of the uncertainties of anarchy by promoting predictability, reliability, and regularity. As Hedley Bull explains, “international law provides a means by which states can advertise their intentions with regard to the matter in question [and] provide one another with a reassurance about their future policies in relation to it.”

Thus, it is not that states abide by international law only when it is in their interests to do so, but rather that a system of law makes it possible for states to achieve common interests that would be unattainable without international law.

Though they agree that self-interest is a powerful motive for state compliance with international law, liberals are more likely to interpret state behavior as resulting from mixed motives, including ethical and moral considerations. When we look at the reasons that people generally abide by law in domestic society, motives other than self-interest are probably even more important. Is it self-interest that stops people from assaulting, killing, and robbing each other? No. People refrain from such activities because they believe that such acts are wrong. Similarly, is it self-interest
that stops nations from attacking each other more often? Probably not. For liberals, the emphasis on self-interest and/or fear of punishment is an unduly pessimistic assessment of state motivations. Remember that liberals view people as essentially rational, reasonable, ethical, and moral beings. Because states are collections of people, state behavior reflects many of the same traits. This perspective provides a much more optimistic vision of the potential of international law.

There are limits to liberal optimism, however. Most liberals have long since abandoned the utopian view of international law that informed the Kellogg-Briand Pact and other attempts to transform international politics through legalistic fiats. There is a realization that international law cannot completely ignore the realities of power politics. Nonetheless, liberals find the realist view of international law too limiting. Utopian
idealism does not have to be replaced by dismissive cynicism. Even if international law cannot bring world peace, it can significantly ameliorate the imperatives of power politics. The realist inclination to reduce all aspects of international politics to relations of power provides a caricature of how the world works. There has always been more to international politics than narrow national interests—there is also restraint, common interests, enlightened self-interest, and, yes, even morality and altruism.

### Constructivism, Law, Norms, and the National Interest

For constructivists, the relationship between international law and national interests is a bit more complicated than realists (or liberals) suggest. To say that states abide by international law primarily (and perhaps only) when it is in their national interest to do so ignores what constructivists consider the most important issue: How and why nations arrive at their definitions of the national interest. National interest is not something which nations discover like scientists discovering the laws of physics. It is not an objective fact; *national interest* is a subjective and variable social construction. Nations think about their national interests today very differently than they did in centuries past. They also reject as unacceptable, even unthinkable, practices that used to be routine for advancing national interests. David Lumsdaine cites a few examples: “Two centuries ago it was acceptable to wage war with hired foreign mercenaries; now it is not. Killing and enslaving the inhabitants of conquered countries, a common if brutal practice in Thucydides’ day, would make a state a total outlaw today. Wars to acquire territory, normal enough in the seventeenth century, are increasingly regarded as unacceptable.”

Most states today would not dream of doing certain things that were once perfectly legitimate. Why not? Because we adhere to very different notions about what states should be allowed to do; state behavior has changed along with our evolving moral standards.

Realists ask whether international law constrains nations in the pursuit of their national interests, and generally they conclude that it does not. For constructivists, this is not only the wrong answer but also a very simple-minded way of thinking about the relationship between international law and national interests. Once we accept the idea that definitions of the national interest change and evolve over time, a whole new set of possibilities opens up. Is it possible, for example, that prevailing conceptions of morality and rules of law help shape the way nations define their interests? Not only is it possible, but it also seems self-evidently to be the case. Thus, the relationship among national interests, state behavior, and international law is more complicated than is often believed. “Norms are not simply an ethical alternative to or constraint on self-interest,” Audie Klotz tells us, “rather, in the constructivist view . . . norms play an explanatory role . . . . Thus international actors—even great powers such as the United States—inerently are socially constructed; that is, prevailing global norms . . . partially define their interests.”

We noted earlier that laws, domestic and international, are typically obeyed because people identify with the norms of behavior they embody (the identitive basis of compliance). This is consistent with the constructivist view that states behave on the basis of shared understandings (i.e., norms) of what is appropriate behavior. So merely looking for instances where international legal norms constrained state behavior underestimates their importance; we also need to appreciate how legal norms influence definitions of national interest in the first place.
Conclusion

Discussions of international law used to be defined by the extreme positions: at one end of the spectrum, international law was dismissed as a nonexistent or worthless sham; at the other, international law was presented as an alternative to power politics and the use of force. Contemporary thinking about international law generally rejects both positions in favor of a more nuanced view. There is, in fact, a substantial amount of agreement in the debate over the value of international law. At a general level, Peter Malanczuk comes closest to summarizing prevailing opinion: “The role of international law in international relations has always been limited, but it is rarely insignificant.”

There is also a consensus that the vast majority of states abide by international law the vast majority of the time. But there are still differences, particularly concerning the motives for compliance, that reflect underlying disagreements about the forces that shape state behavior.

Realists argue that states are primarily motivated by concerns about power and national interest. International anarchy requires that states prioritize power and interests because those that do not will suffer at the hands of those who do. The scope for moral behavior is severely limited in the competitive arena of international politics. The fact that states usually comply with international law is seen as perfectly consistent with this view. For realists, this compliance is driven largely by considerations of national interest, and when there is a conflict between international law and national interests, the latter will certainly prevail. States do not obey international law out of moral commitment. Sometimes the moral and legal course of action is also in the national interest, but this is merely a happy coincidence.

Liberals and constructivists are united in rejecting realist attempts to explain everything in terms of power and national interest. Although morality may or may not be the predominant reason for compliance with international law, it is certainly not the insignificant factor that realists would have us believe. The realist argument, however, is very difficult to counter, largely because the concept of national interest is so vague and elastic that it can account for almost anything states do. Those who are convinced that calculations of national interest dictate how states behave will always be able to explain their actions in these terms. The “national interest” is like those inkblot tests psychologists show patients and ask them to tell what they see. You can usually see pretty much anything you want—if you want to see a tiger, there it is; if you want to see your mother, there she is. If a state abides by international law, you can show that it was in its national interest to do so; if it violated the same law, you could show how that, too, was in its national interest. The realist position is almost impossible to disprove. But even if we accept the realist position that national interests determine state behavior, this only leads to the more fundamental question of how states arrive at their definitions of national interests. Conceptions of national interest do not exist independent of international laws and norms. Certainly, definitions of national interest are reflected in laws and norms, but these laws and norms also influence how states think about their national interests.
Points of View

Should the United States Accept the International Criminal Court?

Since the end of World War II, several treaties and conventions have outlawed particularly egregious violations of human rights—crimes against humanity, genocide, and other war crimes. Until recently, however, there was no international judicial body designed to prosecute individuals suspected of engaging in these proscribed behaviors. The International Court of Justice hears cases against states, not individuals. Typically, the ICJ has created ad hoc courts to hear cases against individuals, such as the one trying those suspected of mass killings in the former Yugoslavia. During the 1990s, there was a movement to establish a permanent court to deal with such cases. These efforts were successful, and on July 17, 1998, 120 nations voted in favor of the Rome Statute of the International Criminal Court (ICC). Only seven nations voted against the establishment of this court, including China, Israel, Iraq, and the United States. As of September 2002, eighty-one countries had ratified the statute; the United States was not among them. The Clinton administration claimed to support the idea of the ICC but opposed some provisions of the actual treaty. In 2002, the Bush administration announced its opposition and its decision not to seek ratification of the Rome Statute.

The following documents deal with the controversy over the Bush administration’s decision. The remarks by John Bolton, then Undersecretary of State for Arms Control and International Security (and more recently United States Ambassador to the United Nations), lay out the administration’s concerns about the ICC and its reasons for opposing the treaty. Law professor Joanne Mariner finds fault with the administration’s analysis of the treaty and its decision on several levels. What are the main points of disagreement in terms of the specifics of the ICC? More important, how does their disagreement on the ICC reflect a more fundamental difference on the role and value of international law versus the importance of national sovereignty?

The United States and the International Criminal Court (2002)

John R. Bolton, Under Secretary for Arms Control and International Security

The topic I have been asked to speak on is the United States’ view of the role of treaties. I thought I would use the International Criminal Court (ICC) as a case study.

For a number of reasons, the United States decided that the ICC had unacceptable consequences for our national sovereignty. Specifically, the ICC is an organization whose precepts go against fundamental American notions of

sovereignty, checks and balances, and national independence. It is an agreement that is harmful to the national interests of the United States, and harmful to our presence abroad.

U.S. military forces and civilian personnel and private citizens are currently active in peacekeeping and humanitarian missions in almost 100 countries at any given time. It is essential that we remain steadfast in preserving the independence and flexibility that America needs to defend our national interests around the world. As President Bush said,

The United States cooperates with many other nations to keep the peace, but we will not submit American troops to prosecutors and judges whose jurisdiction we do not accept . . . . Every person who serves under the American flag will answer to his or her own superiors and to military law, not to the rulings of an unaccountable International Criminal Court.

In the eyes of its supporters, the ICC is simply an overdue addition to the family of international organizations, an evolutionary step ahead of the Nuremberg tribunal, and the next logical institutional development over the ad hoc war crimes courts for the Former Yugoslavia and Rwanda. The Statute of Rome establishes both substantive principles of international law and creates new institutions and procedures to adjudicate these principles. The Statute confers jurisdiction on the ICC over four crimes: genocide, crimes against humanity, war crimes, and the crime of aggression. The Court’s jurisdiction is “automatic,” applicable to covered individuals accused of crimes under the Statute regardless of whether their governments have ratified it or consent to such jurisdiction. Particularly important is the independent Prosecutor, who is responsible for conducting investigations and prosecutions before the Court. The Prosecutor may initiate investigations based on referrals by States Parties, or on the basis of information that he or she otherwise obtains.

So described, one might assume that the ICC is simply a further step in the orderly march toward the peaceful settlement of international disputes, sought since time immemorial. But in several respects, the court is poised to assert authority over nation states, and to promote its prosecution over alternative methods for dealing with the worst criminal offenses.

The United States will regard as illegitimate any attempts to bring American citizens under its jurisdiction. The ICC does not fit into a coherent international “constitutional” design that delineates clearly how laws are made, adjudicated or enforced, subject to popular accountability and structured to protect liberty. There is no such design. Instead, the Court and the Prosecutor are simply “out there” in the international system. Requiring the United States to be bound by this treaty, with its unaccountable Prosecutor, is clearly inconsistent with American standards of constitutionalism and the standards for imposing international requirements . . . .

Numerous prospective “crimes” were suggested at Rome and commanded wide support from participating nations. This includes the crime of “aggression,” which was included in the Statute, but not defined. Although frequently easy to identify, “aggression” can at times be something in the eye of the beholder. For example, Israel justifiably feared in Rome that certain actions, such as its initial use
of force in the Six Day War, would be perceived as illegitimate preemptive strikes that almost certainly would have provoked proceedings against top Israeli officials. Moreover, there seems little doubt that Israel will be the target of a complaint in the ICC concerning conditions and practices by the Israeli military in the West Bank and Gaza. Israel recently decided to declare its intention not to become a party to the ICC or to be bound by the Statute’s obligations.

A fair reading of the treaty leaves one unable to answer with confidence whether the United States would now be accused of war crimes for legitimate but controversial uses of force to protect world peace. No U.S. President or his advisers could be assured that he or she would be unequivocally safe from the charges of criminal liability.

... My concern goes beyond the possibility that the Prosecutor will target for indictment the isolated U.S. soldier who violates our own laws and values by allegedly committing a war crime. My concern is for our country’s top civilian and military leaders, those responsible for our defense and foreign policy. They are the ones potentially at risk at the hands of the ICC’s politically unaccountable Prosecutor...

[An] alternative, of course, is for the parties themselves to try their own alleged war criminals. Indeed, there are substantial arguments that the fullest cathartic impact of the prosecutorial approach to war crimes occurs when the responsible population itself comes to grips with its past and administers appropriate justice. The Rome Statute pays lip service to the doctrine of “complementarity,” or deference to national judicial systems, but this is simply an assertion, unproven and untested. It is within national judicial systems where the international effort should be to encourage the warring parties to resolve questions of criminality as part of a comprehensive solution to their disagreements. Removing key elements of the dispute to a distant forum, especially the emotional and contentious issues of war crimes and crimes against humanity, undercuts the very progress that these peoples, victims and perpetrators alike, must make if they are ever to live peacefully together.

Take Cambodia. Although the Khmer Rouge genocide is frequently offered as an example of why the ICC is needed, its proponents offer inadequate explanations why the Cambodians themselves should not try and adjudicate alleged war crimes committed by the Khmer Rouge regime. To exempt Cambodia from responsibility for this task implies the incurable immaturity of Cambodians and paternalism by the international community. Repeated interventions, even benign ones, by global powers are no substitute for the Cambodians coming to terms with themselves. That said, we could see a role for the UN to cooperate with Cambodia in a Khmer Rouge tribunal to provide technical assistance and to ensure that credible justice is achieved.

In the absence of the means or political will to address grave violations, the United States has supported the establishment and operation of ad hoc tribunals such as those in Yugoslavia and Rwanda. Unlike the ICC, these are created and overseen by the UN Security Council, under a UN Charter to which virtually all nations have agreed.

As the ICC comes into being, we will address our concerns about the ICC’s jurisdictional claims using the remedy laid out for us by the Rome Statute itself.
and the UN Security Council in the case of the peacekeeping force in the former Yugoslavia. Using Article 98 of the Rome Statute as a basis, we are negotiating agreements with individual States Parties to protect our citizens from being handed over to the Court. Without undermining the Court’s basic mission, these agreements will allow us the necessary protections in a manner that is legally permissible and consistent with the letter and spirit of the Rome Statute.

In order to promote justice worldwide, the United States has many foreign policy instruments to utilize that are fully consistent with our values and interests. We will continue to play a worldwide leadership role in strengthening domestic judicial systems and promoting freedom, transparency and the rule of law. As Secretary Powell has said: “We are the leader in the world with respect to bringing people to justice. We have supported a tribunal for Yugoslavia, the tribunal for Rwanda, trying to get the tribunal for Sierra Leone set up. We have the highest standards of accountability of any nation on the face of the earth.”

We respect the decision of States Parties to join the ICC, but they in turn must respect our decision not to be bound by jurisdictional claims to which we have not consented. Signatories of the Statute of Rome have created an ICC to their liking, and they should live with it. The United States did not agree to be bound, and must not be held to its terms.

The Case for the International Criminal Court (2002)

Joanne Mariner

In stepping up its campaign against the International Criminal Court, the United States is now threatening an array of drastic measures. Endangering the international presence in Bosnia, warning of a possible boycott of United Nations peacekeeping missions, and pledging a policy of total noncooperation with the court’s prosecutions, Washington’s stubborn enmity toward the court has led it to take actions that anger even its closest allies.

So what is the nature of this “threat” to American interests, as Secretary of Defense Donald Rumsfeld recently described it? Does the ICC undermine American sovereignty and jeopardize our national security? Is the United States justified in seeking full immunity from the court’s activities because of the serious dangers inherent in any assertion of the court’s jurisdiction, even over U.N. peacekeepers?

Washington’s actions presuppose that the answers to these questions is yes. It would be foolish and ill-advised to alienate so many of our allies, particularly at a time when our national security depends on international cooperation, if the stakes were not extremely high.

But a review of the ICC’s history, rules, and structure presents a very different picture than that understood by Washington. Rather than a court that wrongly threatens U.S. interests, the evidence suggests that the United States is wrongly damaging an

international tribunal, thoughtlessly undermining international legal standards, and
unwisely subverting the development of international justice.

**A Court for the World’s Worst Criminals**
The International Criminal Court, whose underlying treaty came into force this past
July 1, has jurisdiction over the world’s worst criminals: those who have committed
genocide, crimes against humanity and war crimes. It will also have jurisdiction
over the crime of aggression, if and when a definition is decided upon in the future.

Most of the definitions of crimes in the court’s treaty were already well
established in international law when the treaty was drafted. In addition, there is
now a substantial body of case law from existing international war crimes tribunals
to flesh out their meanings. Finally, the Elements of Crimes, drafted subsequent
to the court’s underlying treaty, further specifies the breadth of the ICC’s subject
matter jurisdiction.

In terms of the temporal limitations, the court will only have jurisdiction over
crimes committed after the treaty’s entry into force. In other words, there is no
possibility that the court will be used to right all the wrongs of the past. It is not a
court for Idi Amin, but instead for the Idi Amins of the future.

**Developments in the U.S. Position**
There is nothing preordained about the current U.S. hostility toward the ICC.
Indeed, it was not always so: the U.S. was an early and enthusiastic supporter of
the idea of an international criminal court. In the early 1990s, the U.S. Congress
passed resolutions in favor of the court’s establishment, and high-level Clinton
Administration officials were active participants in the process of drafting the
court’s treaty.

What finally turned the United States against the court was other countries’
refusal to allow the U.N. Security Council to be the court’s gatekeeper. Under the
rules proposed by the United States, the Security Council was to have a veto over
the court’s docket. Because of the U.S. power on the Security Council, Washington
was assured that a Security Council–controlled court would pose no threat to its
interests.

Although such a court would, in principle, target those responsible for human
rights crimes the world over, in practice, it could never prosecute an American
citizen in the face of U.S. opposition, or, indeed, prosecute the citizen of any
member of the Security Council in the face of the member’s opposition. In this
way, a handful of countries would have been exempted from norms applicable to
all the rest.

Although this proposal was rejected at the 1998 Rome Conference where the
ICC treaty was negotiated, the treaty did include the “Singapore compromise,” by
which the Security Council may delay a prosecution for twelve months if it believes
the ICC would interfere with the Council’s efforts to further international peace
and security. Under this compromise provision, the Security Council must pass a
resolution requesting the court not to proceed; an individual permanent member
cannot block an investigation by exercising its veto.
In refusing to sign the ICC treaty at the Rome Conference, the U.S. found itself quite isolated. Only China, Iraq, Libya, Qatar, Yemen and Israel joined in boycotting the court, while 120 nations voted in its favor. Although the outgoing Clinton Administration did finally sign the ICC treaty in late December 2001, it continued to insist that the court was flawed. By signing the treaty, however, the U.S. would be able to remain engaged in shaping the new institution.

In other countries, ratification efforts have proceeded at a rapid pace, beyond the hopes of the court’s most optimistic supporters. To date, seventy-four countries, including every country in the European Union, have ratified the ICC treaty.

**U.S. Unilateralism**

The U.S. may have failed to undermine the court’s universality at the Rome Conference, but it has not given up in its quest to be totally exempt from the court’s jurisdiction. Moreover, the U.S. position with regard to the court is symptomatic of a broader unwillingness to be subject to the same international legal norms that bind other countries.

Although in the wake of the September 11 atrocities U.S. officials called for global coalition-building and multilateral cooperation, Washington’s actions belie this approach. Now, perhaps more than ever in the past, the United States seems to be willing to force its agenda on the rest of the world—to substitute unilateral power for global consensus.

Those who portray the ICC as a rogue court should wonder instead whether, in persisting in its efforts to sabotage the court, the U.S. is acting more and more like a rogue state.
Despite the absence of a world government, most agree that there is a body of rules and norms of behavior that make up international law.

International law has often been viewed from two different (and extreme) positions. Skeptics see international law either as nonexistent or as a worthless sham that can be easily ignored when it clashes with power and interests. Its more enthusiastic supporters have sometimes seen international law as a powerful tool to shape and change the behavior of states for the better.

There are several major sources of international law, the most important being customs and treaties or conventions. Decisions of international legal bodies and writings of widely recognized legal authorities are secondary sources of international law.

The major weakness or limitation of international law is the conflicting and often vague provisions in international treaties and conventions as well as a legal system that lacks compulsory jurisdiction and an accepted hierarchy.

The ability of nations, particularly the most powerful, to ignore and escape the restrictions of international law provides the most vivid illustration of the weakness of international law.

Supporters point out that in the vast majority of instances, nations scrupulously abide by international law for a variety of reasons (e.g., they agree with the laws, it is in their self-interest, and they fear punishment by other states). This fact is often obscured by some of the more dramatic failures of international law, such as the attempt to “ outlaw war” in the 1920s.

Even supporters realize that international law has its limits, as does domestic law. An effective legal code needs to reconcile itself to actual behavior of individuals and/or states and not try to radically remake them according to abstract moral principles.

International law also has profound impact on how states define their national interest and what types of actions they consider acceptable in pursuit of these national interests.

In general, realists are most skeptical of the value of international law, whereas liberals and constructivists believe it is, and can be, an important force shaping the behavior of states.

1. Why is there some disagreement on whether international law even exists?
2. How do liberal, constructivist, and realist perspectives on international law differ?
3. Why do states usually abide by international law even in the absence of an effective legal system at the global level?
4. Critics are able to point to frequent violations of international law to illustrate its impotence, especially when it comes to limiting the actions of great powers. How might supporters of international law respond to this line of criticism?
5. How is international law enforced?

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INTERNATIONAL LAW ON THE WEB

www.icj-cij.org
The Web site of the International Court of Justice provides information on current and past cases before the court as well as international law more generally.

www.un.org/law
The United Nation’s international law Web site offers a wealth of information on international legal bodies as well as treaties.

www.asil.org
The Web site of the American Society of International Law provides information on all aspects of international law, including how it relates to current events.

www.yale.edu/lawweb/avalon/avalon.htm
Maintained by the Yale Law School, this Web site posts texts of almost every significant treaty and legal document of the last five hundred years.

www.law.nyu.edu/library/foreign_intl/
A Web site containing links to a wide variety of sources on all aspects of international law.

www.public-international-law.net
A Web site that deals with international law generally but focuses on international treaty law.

NOTES

9Ibid., pp. 23–24.
11Ibid., p. 193.
12See Robert Pastor, Condemned to Repetition: The United States and Nicaragua (Princeton, NJ: Princeton

13Morgenthau, Politics Among Nations, p. 277.
17B. V. A. Roling cited in ibid., p. 33.
18Cited in Carr, Twenty Years’ Crisis, p. 176.

22Malanczuk, Akehurst’s Modern Introduction to International Law, p. 16.
24In Kauppi and Viotti, Global Philosophers, p. 151.
26Morgenthau, Politics Among Nations, p. 265.
27Carr, Twenty Years’ Crisis, p. 176.
28Brierly, Law of Nations, p. 56.
32Malanczuk, Akehurst’s Modern Introduction to International Law, p. 6.