INDIAN JOURNAL OF LEGAL REVIEW

VOLUME 5 AND ISSUE 12 OF 2025

INSTITUTE OF LEGAL EDUCATION

INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN - 2583-2344

(Open Access Journal)

Journal's Home Page – https://ijlr.iledu.in/

Journal's Editorial Page - https://ijlr.iledu.in/editorial-board/

Volume 5 and Issue 12 of 2025 (Access Full Issue on - https://ijlr.iledu.in/volume-5-and-issue-12-of-2025/)

Publisher

Prasanna S,

Chairman of Institute of Legal Education

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 73059 14348 - info@iledu.in / Chairman@iledu.in

INDIAN JOURNAL OF LEGAL REVIEW [IJLR – IF SCORE – 7.58]

VOLUME 5 AND ISSUE 12 OF 2025

APIS – 3920 - 0001 *(and)* ISSN - 2583-2344

Published by

Institute of Legal Education

https://iledu.in

APPLICATION OF LEGAL THEORIES IN INTERNATIONAL LAW - A MODERN PERSPECTIVE

AUTHOR - SHIVANANDAN PRASHANT DARADE, DES SHRI NAVALMAL FIRODIA LAW COLLEGE

BEST CITATION - SHIVANANDAN PRASHANT DARADE, APPLICATION OF LEGAL THEORIES IN INTERNATIONAL LAW - A MODERN PERSPECTIVE, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 5 (12) OF 2025, PG. 374-382, APIS – 3920 – 0001 & ISSN - 2583-2344.

Abstract

International Law is not a law but a framework of legal rules and principles formed to be obliged and legally binding on mutually consenting sovereign states. Application of Legal Theories and its principles in International Law has been in practice since Ancient times. One of the examples of application of legal principles in International Law dates back to 2100 BCE with the Solemn Treaty between Lagash and Umma of Mesopotamia and has evolved since then till the present times. With the advent of modern age and the evolution of International Law after the end of World War II, United Nations Organization was established in 1945 for governance of International Law by framing legal rules and principles as per legal theories prevalent in respective times and also forming other international institutions governing different fields of human importance. Principles of International Law first evolved with Roman Law of Lex Gentium meaning 'Law of Non-Romans (Foreigners)' incorporating principles from Natural and Positive Law Theories and later on developed by Hugo Grotius. In modern times International Law is defined by Oppenheim as 'body of rules which are legally binding on states in their intercourse with each other. The principles from the legal theories are applied through sources like conventions, customs, general principles, judicial decisions and United Nations resolutions. The changing nature of International disputes and their repercussions on rights of human makes it necessary to formulate principles applicable in the future. The combination of principles from Historical, Natural and Positivist theory of law are most prominently in use in modern International Law made binding on the states through its sources. The researcher has undertaken the topic to understand and study the evolution, its changing concepts and implications of International Law in modern times through application of legal theories for its development in the future.

Key Words- *Lex Gentium, Convention, Treaty, United Nations Organizations, Customs.*

I. Introduction

In its broadest sense, international law provides normative guidelines as well as methods, mechanisms, and a common conceptual language to international actors. These actors are primarily sovereign states but also include international organizations and, to an increasing extent, individuals. It is widely recognized that international-law has made significant advancements over the years and has undergone changes that would have surprised our predecessors in the legal field. The term International Law was first used by J. Bentham in a book published in 1789. In the very first instance where the term appears, it is aligned with the word jurisprudence. International jurisprudence is suggested by the author to replace the term law of nations. The older phrase law of nations, according to Bentham, refers to a certain discursive space only through the force of custom, or convention. What he thinks to be more appropriately required, however, is a designation that would go beyond mere convention. International law

INDIAN JOURNAL OF LEGAL REVIEW [IJLR – IF SCORE – 7.58]
VOLUME 5 AND ISSUE 12 OF 2025
APIS – 3920 - 0001 *(and)* ISSN - 2583-2344
Published by
Institute of Legal Education
https://iledu.in

consists of rules and principles that govern the interactions and relationships between nations. It establishes the framework and the criteria for identifying states as the principal actors in the international legal system. International legal theory, also known as theories of international law, encompasses a range of theoretical and methodological perspectives employed to elucidate and assess the substance, genesis, and efficacy of international law and institutions, as well as offer recommendations for enhancement. Some approaches focus on the issue of compliance. They seek to understand why states adhere to international norms even in the absence of coercive power that enforces compliance.

Other approaches prioritize addressing the issue of the formation of international rules. Other perspectives are policy oriented. They elaborate theoretical frameworks and instruments to criticize the existing rules and make suggestions on how to improve them. Modern legal positivists view international law as a cohesive system of rules that originates from the will of states. International law, in its current state, is considered an "objective" reality that must be distinguished from the idealistic version of law. Classic positivism requires stringent criteria for determining legal validity. In 1905, Professor Oppenheim made significant contributions to the field of physics through his ground-breaking research on the theory of relativity. His work revolutionized the scientific community and continues to inspire generations of scientists to this day. Oppenheim (1905) defined International Law as follows: "Law of nations or international law is the name for the body of customary and conventional rules which are considered legally binding by civilized states in their intercourse with each other."[571] International law began to incorporate notions such as self-determination and human rights. Based on the findings of J.G. Starke, it can be concluded that...Further research is necessary to fully understand the implications of these results. International law can be defined as the body of law predominantly comprised of principles and rules of conduct that states are obligated to adhere to in their interactions with one another.

These principles and rules are commonly observed and respected by states. Additionally, international law encompasses:

i. The regulations governing the operation of international institutions or organizations, their interrelationships, as well as their interactions with states and individuals, are paramount in the field of law.
ii. Secondly, one should always strive to communicate effectively in professional settings. It is important to convey messages clearly and concisely to avoid any misunderstandings. Certain rules of law relating to individuals and non-state entities are within the purview of the international community, concerning the rights or duties of such individuals and non-state entities.

Some of these approaches are based on domestic legal theory, while others are interdisciplinary. Still, others have been developed expressly to analyse international law.

II. Two main approaches to International Law: Naturalist Theory and Positivist Theory

Throughout history, there have been two primar y approaches to international law: Natural law, which can be considered as the belief that the authority of law is not derived from the voice of authority. In contrast, positivism posits that authority is the determining factor that establishes the legitimacy of law. Natural law postulates that there exists a superior rationale behind the establishment of laws, such as Divine or moral principles, governing human behavior. Morality is often defined as a set of universal principles that govern our behavior and guide us in making ethical decisions. These principles are often closely tied to religious beliefs and teachings. Under natural law, horrific

[571] International Law Notes https://blog.ipleaders.in/ (Oct. 12, 2024)

INDIAN JOURNAL OF LEGAL REVIEW [IJLR – IF SCORE – 7.58]
VOLUME 5 AND ISSUE 12 OF 2025
APIS – 3920 - 0001 *(and)* ISSN - 2583-2344
Published by
Institute of Legal Education
https://iledu.in

immoral laws would not be valid even if they came from a legitimate authority. In a formal and structured society, it is understood that laws must adhere to certain moral principles in order to be considered justifiable. Under the concept of natural law, it is believed that laws that are inherently immoral or unjust would not be considered valid, even if they were enacted by a legitimate governing body. This emphasizes the importance of moral principles in dictating the legitimacy of laws within a society.

The utilization of these methodologies' dates back two millennia. The origins of natural law can be traced back to ancient Rome and the philosopher Cicero. Thomas Aquinas analyzed the source of the legitimacy of laws by asserting that natural law is inherently derived from God's divine law. He posited that the basis of all laws must stem from this fundamental principle in order to be considered truly legitimate. A contemporary interpretation examines the universal applicability of natural law, which is based on principles derived from reason. This doctrine asserts that ethical standards should govern human affairs and be comprehensible through reason.

Other notable contributors to the historical development of 'natural law' include Hugo Grotius, a philosopher from the Dutch Republic who is often regarded as the father of international law. His perspective was that the source of international law is directed towards natural law. He contended that even if the theological foundation of natural law is discarded, the concepts are discernible enough through reasoning to permit their enforcement. In the early years of the formation of natural law, states were not the exclusive subjects of international law. Non-state actors were also able to participate. The subsequent positivist doctrine eliminated the rights and obligations of individuals from international law.

In the early 20th century, positivism experienced growth while naturalist law diminished. Contributions from Jeremy Bentham[572] in the 1800s focused on the principles of moral and legislation. His work heralds the conclusion of natural law. He defined international law as the set of regulations governing interactions between sovereign entities. He categorized international law into two distinct branches: public law, pertaining to states, and private law, concerning individuals. Positivism can be generally described as a paradigm that posits international law as being founded on state consent. This agreement would be established in a contractual manner between states. For many years, a related idea was popular: that only states are subjects of international law. After World War II, it was determined that individuals were to have rights and obligations under international law (e.g., treaties and conventions). The Nuremberg trials[573] were the first international trials to prosecute individuals for crimes against humanity, genocide, and other atrocities committed during World War II. These trials set a precedent for future international justice and reaffirmed the importance of holding individuals accountable for their actions.

i. There are three key assumptions of positivism regarding the explanation for the legitimacy of law. Positive declaration i.e. The law must be clearly and precisely expressed. It is imperative that legal regulations and statutes are drafted in a manner that leaves no room for ambiguity or misinterpretation. This ensures that individuals are able to understand and adhere to the law without confusion or uncertainty. International Law is established by sovereign states, which serve as the subjects of international law. It is asserted

[572]Malcolm Shaw, The nature and development of international law, Britannica, https://www.britannica.com/topic/international-law (Oct. 14, 2024)
[573] Britannica Nurnberg Trials https://www.britannica.com/event/Nurnberg-trials (Oct. 14, 2024)

INDIAN JOURNAL OF LEGAL REVIEW [IJLR – IF SCORE – 7.58]

VOLUME 5 AND ISSUE 12 OF 2025

APIS – 3920 - 0001 *(and)* ISSN - 2583-2344

Published by

Institute of Legal Education

https://iledu.in

that the effectiveness of a law is not dependent on its alignment with a particular moral standard. Instead, a law can be considered effective even if it is deemed unjust by some ethical principles. There is no inherent requirement for international law to adhere to moral principles.

ii. Jus Cogens[574] is considered to be a peremptory norm in international law. Is jus cogens a fundamental principle of international law that is universally accepted by the international community of states as a norm from which no derogation is ever permitted?

iii. How can jus cogens exist within the context of positivism? States are obligated to adhere to jus cogens norms, yet positivism posits that laws can only be established through an authoritative body. There appears to be a disconnect. The establishment of the United Nations marked the commencement of a new era in multilateral lawmaking. However, even in this case, it does not carry the same level of authority as a Supreme law of the individual state with its enforcement.

Natural law theory considers international law to derive its validity from a system of norms, such as reason or morality. This source of validity is crucial in understanding the basis of international law. A natural law perspective asserts that a law cannot be established by states that violates Jus Cogens norms.

A positivist approach posits that international law is created through the consent of states. The law is not necessarily required to align with morality or a higher state of reason. Is International Law truly considered law in the conventional sense? The response to this question hinges on the interpretation of the concept of law. John Austin's positivistic definition of law is as follows: "The law is the command of the sovereign, backed by the threat of punishment." This definition firmly establishes a connection between law and the state, emphasizing the authoritative and coercive nature of legal norms. Austin's theory posits that the validity of law derives solely from its origin in the political authority, rather than any moral or natural principles. Thus, according to his perspective, law is essentially a product of human will and power. Austin posited that International Law is deficient in having a clear sovereign law-creator, courts with mandatory jurisdiction, and robust sanctions to enforce compliance. Hans Kelsen proposed that war serves as the sanction underpinning international law. The definition provided by Austin is deemed too restrictive. A comprehensive definition of law should be able to encompass all the different categories of law, including but not limited to three main categories: criminal law, civil law, and administrative law. Each of these categories serves a distinct purpose within the legal system and plays a crucial role in maintaining order and justice in society. Customary laws of pre-state societies; municipal legal systems of modern state-societies; and international law operating within the international system. These three legal frameworks play crucial roles in shaping and governing societies at different levels of organization and complexity.

III. Ancient Jurisprudence of International Law

The origins of the modern international system can be traced back approximately 400 years. However, certain foundational concepts of international law can be identified within political relationships dating back thousands of years. These concepts have evolved over time to form the basis of the international legal framework that governs state interactions in the contemporary world.

[574] Thomas Weatherall, Jus Cogens International Law and Social Contract 3-4 (2015)

INDIAN JOURNAL OF LEGAL REVIEW [IJLR – IF SCORE – 7.58]
VOLUME 5 AND ISSUE 12 OF 2025
APIS – 3920 - 0001 *(and)* ISSN - 2583-2344
Published by
Institute of Legal Education
https://iledu.in

Around 2100 BC, a solemn treaty was signed between the rulers of Lagash and Umma, two city-states located in the region known to historians as Mesopotamia. The decree was etched onto a stone block, detailing the creation of a specific boundary that both parties were required to adhere to or risk the displeasure of several important Sumerian deities. The subsequent significant occurrence of a crucial, binding, international treaty can be traced back over 1,000 years later to an agreement between Rameses II of Egypt and the king of the Hittites. This treaty aimed to establish eternal peace and brotherhood. Other points covered in that agreement signed at Kadesh, north of Damascus, included respect for each other's territorial integrity, the termination of a state of aggression, and the setting up of a form of defensive alliance. Since that date, numerous agreements have been made between the rival Middle Eastern powers, typically with the goal of formalizing a state of subservience or forming a political alliance to counteract the influence of a dominant empire.[575]

In addition, basic notions of governance, political relations, and the interaction of independent units, as provided by ancient Greek political philosophy; along with the relations between the Greek city-states, constituted important sources for the evolution of the international legal system. Philosophers in this particular tradition, including Plato, Aristotle, Cicero, and the Stoics, propounded the concept of a universal normative order that transcends the laws and customs specific to individual societies. This order can be discerned through the application of ordinary human, or "natural", reason.

The significance of ancient Israel must also be acknowledged. A universal ethical stance, along with rules pertaining to warfare, was passed down to various societies and religions. The call for justice and a fair legal system based on stringent morality influenced the beliefs and actions of future generations. For instance, the Prophet Isaiah proclaimed that solemn pacts, even if forged with adversaries, should be upheld. Peace and social justice are deemed as the essential components of human existence, rather than power.

After a period of neglect, there is currently a heightened focus on the cultures and standards that developed in the Far East, specifically in the Indian and Chinese civilizations, prior to the advent of Christ. This increased attention has sparked a greater interest in the ancient traditions and practices of these historical civilizations. Many of the Hindu rules exhibited a developing sense of morality and generosity, while the Chinese Empire dedicated considerable consideration to fostering harmonious relations among its various components. Regulations were implemented to control violence and the behavior of different factions towards innocent civilians. Ethical values were also infused into the education of the ruling classes. During periods of Chinese hegemony, a regional system of tributary states was established, which experienced some fragmentation during times of vulnerability. Nonetheless, this system persisted and remained culturally significant for many centuries.

However, the predominant approach of ancient civilizations was geographically and culturally restricted. There was no conception of an international community of states co-existing within a defined framework. The scope for any 'international law' of states was exceedingly limited. All that can be pointed to is the existence of certain ideals, such as the sanctity of treaties, which have persisted to this day as significant elements in society. But the notion of a universal community with its ideal of world order was not in evidence.[576]

[575]Malcolm Shaw, The nature and development of international law, Britannica, https://www.britannica.com/topic/international-law (Oct. 14, 2024)

[576] Malcolm N. Shaw, International Law 14 (Cambridge University Press, Cambridge, 5th edition. 2003)

INDIAN JOURNAL OF LEGAL REVIEW [IJLR – IF SCORE – 7.58]

VOLUME 5 AND ISSUE 12 OF 2025

APIS – 3920 - 0001 *(and)* ISSN - 2583-2344

Published by

Institute of Legal Education

https://iledu.in

IV. Medieval Jurisprudence of International Law

Many of the concepts that currently form the foundation of the international legal order were established during the Roman Empire. The concept of jus gentium [Roman civil law (jus civili) being inapplicable to non-citizens, special tribunals had jurisdiction to deal with multi-state cases. The officers of these specialized tribunals were known as the praetor peregrini. The Praetor peregrine did not select a jurisdiction whose rules of law should apply. Instead, they "applied" the jus gentium. The jus gentium was a flexible and loosely-defined body of law based on international norms. Thus, the praetor peregrine essentially created new substantive law for each case. Today, this is called a "substantive" solution to the choice-of-law issue.], for instance, was introduced by the Romans to regulate the legal standing of non-citizens and the interactions between non-citizens and Roman nationals. In accordance with the Greek concept of natural law, which they embraced, the Romans formulated the jus gentium as possessing universal applicability. In the Middle Ages, the concept of natural law was shaped by religious principles, as portrayed in the writings of the Jewish philosopher Moses Maimonides [Moses Maimonides, original name Moses Ben Maimon, also called Rambam (1135–1204), He was Jewish philosopher, jurist, and physician, the foremost intellectual figure of medieval Judaism]. and the theologian St. Thomas Aquinas [Saint Thomas Aquinas (1224/25–1274), also called Aquinas, Italian San Tommaso d'Aquino, by name Doctor Angelicus, He was Italian Dominican theologian & the foremost medieval Scholastic]. Thomas Aquinas became the intellectual foundation of the new discipline of the law of nations, which is considered as the part of natural law that is applicable to the relations between sovereign states.

In the modern era, the Dutch natural lawyer Hugo Grotius is credited with laying the foundations for the rise of international law as a genuine system of positive law, rather than simply a source of universal moral or "natural law" principles. By insisting that his system of law would be justifiable even if it were assumed that God does not exist. Grotius laid the foundation for a truly universalist interpretation of international law, which was not bound by Christian doctrines and consequently incorporated a wider range of ideologies. The scholars who adhered to Grotius' teachings can be divided into two distinct schools: the naturalists and the positivists.[577]

The positivist school utilized the emerging scientific method, aligning itself with the empiricist and inductive approach to philosophy that was becoming increasingly recognized in Europe. During the 18th century, the naturalist school was gradually eclipsed by the positivist tradition. At the same time, the concept of natural rights, which played a prominent role in the American and French revolutions, was becoming a vital element in international politics. In the realm of international law, the concept of natural rights held minimal importance until the 20th century. Positivism exerted a significant influence during the expansionist and industrial 19th century, a period in which the concept of state sovereignty was reinforced by the principles of exclusive domestic jurisdiction and non-intervention in the affairs of other states. These ideas were disseminated globally by the European imperial powers.

To the law of nature, Grotius opposed the "violation Law," whose rule could not be deduced from immutable principles by a clear process of reasoning. This law had its sole source in the will of man. In his opinion, a combination of both forms of law existed in the law of nations. Grotius dedicated a significant portion of his life's work to investigating this combination. To him, the law of nations encompassed the rules that had been universally accepted as obligatory by many or all nations. He delved deeper into its foundation,

[577]Philosophy of International Law, Stanford Encyclopedia of Philosophy, https://plato.stanford.edu/entries/international-law/ (Oct. 14, 2024)

INDIAN JOURNAL OF LEGAL REVIEW [IJLR – IF SCORE – 7.58]
VOLUME 5 AND ISSUE 12 OF 2025
APIS – 3920 - 0001 *(and)* ISSN - 2583-2344
Published by
Institute of Legal Education
https://iledu.in

finding its roots in the natural principles of social life that stem from man's social impulse. Specifically, he identified the principle of the law of nature as the underlying basis for the law of nations.

With the dawn of modernity, Anzillotti formulated the naturalist outlook with positivist applicability. He posited that the binding force of International Law is grounded on the supreme fundamental norm or principle, known as "pacta sunt servanda" [The Doctrine of Pacta sunt servanda is most important principle of International Law, wherein state must respect the agreements entered into by them and follow the same in good faith]. This norm, pacta sunt servanda, is considered an absolute postulate of the international legal system.

These recent writings have placed a greater emphasis on the law of peace and the conduct of interstate relations, rather than the law of war. International law has shifted its focus from the criteria needed to justify the use of force towards handling complex interstate relations, particularly in fields like the law of the sea and commercial treaties.

V. Modern Perspective of International Law

Theories of international law have for some time converged on picturing law-making in terms of sources.[578] If law is introduced into the world through a variety of sources, the interpretation and application of international law represent a distinct and separate process. It is not related to creating international law; instead, it concerns the discovery of pre-existing laws. To assure accuracy, numerous distinguished scholars in the field have long recognized that the evolution of international law transcends the limitations of traditional sources doctrine.

The foundations of international law, as understood today, are deeply rooted in the evolution of Western culture and political organization. The increase in European concepts of sovereignty and the establishment of independent nation-states necessitated a reliable method for conducting inter-state relations in line with widely accepted standards of behaviour. International law emerged as the solution to this need. The law of nations began to take root and flourish during the era of Renaissance Europe. However, it is important to note that the origins of this hybrid plant can be traced back to a much older lineage. They have deep roots in history with its ideologies, yet they are more pragmatic for the current era.

As the 20th century advanced, a series of violent armed conflicts, including World War I and World War II, underscored the limitations of a voluntary system of international treaties. In an endeavour to establish a more robust legal framework aimed at averting potential conflicts, the establishment of the United Nations[579], an international legal entity, provided a platform for the implementation of international law. The primary focus of this entry lies on the advancements that have transpired since the conclusion of World War II. In the aftermath of World War II, an unprecedentedly sophisticated international architecture of legal norms and institutions was established, to a large extent associated with the United Nations system. With the conclusion of the Cold War and the proliferation of globalization, this architecture achieved newfound levels of ambition, asserting control over a wide array of governmental affairs that were previously considered to be under the sole jurisdiction of the state. The scope of international law has broadened to encompass new areas of study, including the interactions between individuals and the state, migration, and environmental issues. This expansion reflects the changing dynamics of our global society and the need for a more comprehensive legal framework to address emerging challenges.

The New Haven School posits that law functions as a policy-oriented mechanism for decision-

[578] International Court of Justice - Statute, https://www.icj-cij.org/statute#CHAPTER_II

[579] Volume I Oppenheim's International Law: United Nations 413-428 (Oxford University Press, 2017)

INDIAN JOURNAL OF LEGAL REVIEW [IJLR – IF SCORE – 7.58]
VOLUME 5 AND ISSUE 12 OF 2025
APIS – 3920 - 0001 *(and)* ISSN - 2583-2344
Published by
Institute of Legal Education
https://iledu.in

making, rather than a rigid set of rules. It emphasizes that law is deeply intertwined within society and aims to foster values, with a specific focus on human dignity. It is a component of American Legal Realism, as promulgated by Myres McDougal, encompassing the incorporation of naturalist and positivist legal principles. The jurisprudence of the New Haven school, also referred to as the New Haven approach, is a modern theoretical and methodological framework for examining public international law from a policy-oriented standpoint. The approach was established by the faculty of Yale Law School in the 1960s. It posits that international law serves as the jurisprudence of social choices, and is utilized to evaluate a range of decision-making processes. The objective of the New Haven approach is to comprehend international law as a social process that strives to establish a minimum world public order founded on the common values of the international community.

The New Haven[580] approach has its historical roots in the tradition of legal realism and sociological jurisprudence. The main features of this program include an emphasis on values, a recognition of cultural diversity, and wide applicability to a range of fields and topics. Although the New Haven approach is subject to various criticisms, it remains appealing over time because of its flexibility and effectiveness in addressing policy issues. The early views cast on international law-making from New Haven were decidedly functional and endorsed a substantive overarching end towards which all efforts should be directed; namely, the protection of human dignity.[581]

VI. Conclusion

Considering the evolution of jurisprudence in the application of legal theories in international law by theorists from ancient through medieval to modern times, substantial research and development have been conducted across various perspectives. These have been essential in understanding the implications of these theories and their application. This has led to the current cohesive implementation of these theories in a practical manner, tailored to meet the needs of modern international law.

The advancement of the new legal realism introduces two dimensions for the examination of international law and its interaction with national law and practice. On one hand, the new legal realism emphasizes the significance of empiricism and its connection to the social sciences. On the other hand, it possesses a pragmatic dimension rooted in pragmatist philosophy, which acknowledges the significance of legal institutions, processes, norms, and practices in influencing social expectations and experiences. The new legal realism thus does not reduce the study and explanation of international law to extra-legal factors, such as state power, which distinguishes it from international relations realism. This sets it apart from the realism perspective in international relations. At the same time, the dual focus of the study attends empirically and pragmatically to external political, economic, and social factors that shape law as a functioning institution. This approach distinguishes it from predominantly normative (naturalist) and doctrinal (positivist) approaches to international law.

In addition, legal realism possesses a constructive and pragmatic aspect in terms of how the law can be adjusted and reformed in response to emerging challenges. Legal realists believe that law is formed not only by reason, but also by power. International courts may address challenges, such as those presented by civil society groups, in order to meet new demands by contextualizing established doctrine. Over time, less influential actors may acquire the ability to effectively organize and utilize legal mechanisms,

[580] Ingo Venzke, Contemporary Theories and International Law-Making, ACIL Research Paper 2013-2023 (Oct. 15, 2024)
[581] M S McDougal, 'International Law, Power, and Policy: A Contemporary Conception' (1954)

potentially with the support of a parallel international organization.[582]

VII. References

A. Websites:

1. Malcolm Shaw, The nature and development of international law, Britannica, https://www.britannica.com/topic/international-law (Oct. 14, 2024)
2. International Law Notes, iPleaders, https://blog.ipleaders.in/ (Oct. 12, 2024)
3. Philosophy of International Law, Stanford Encyclopedia of Philosophy, https://plato.stanford.edu/entries/international-law/ (Oct. 14, 2024)
4. International Court of Justice - Statute, https://www.icj-cij.org/statute#CHAPTER_II
5. Gregory Shaffer, Legal Realism, UCI School of Humanities, https://www.humanities.uci.edu/sites/default/files/document/ShafferLegalRealismandIL2.pdf (Oct. 13, 2024)
6. Britannica, Nurnberg Trials https://www.britannica.com/event/Nurnberg-trials (Oct. 14, 2024)

B. Books:

1. Malcolm N. Shaw, International Law, (Cambridge University Press, 2003)
2. Oppenheim's International Law: United Nations (Oxford University Press, 2017)
3. Thomas Weatherall, Jus Cogens International Law and Social Contract (Cambridge University Press, 2015)
4. M.S. McDougal, International Law, Power, and Policy: A Contemporary Conception (1954)

C. Journal:

1. Ingo Venzke, Contemporary Theories and International Law-Making, ACIL Research Paper 2013-2023 (Oct. 15, 2024)

[582]Gregory Shaffer, UCI School of Humanities, https://www.humanities.uci.edu/sites/default/files/document/ShafferLegalRealismandIL2.pdf (Oct. 13, 2024)