STUDIA IURIS

Jogtudományi Tanulmányok / Journal of Legal Studies

2025. II. évfolyam 3. szám

Károli Gáspár Református Egyetem
Állam- és Jogtudományi Doktori Iskola

A folyóirat a Károli Gáspár Református Egyetem Állam- és Jogtudományi Doktori Iskolájának a közleménye. A szerkesztőség célja, hogy fiatal kutatók számára színvonalas tanulmányaik megjelentetése céljából méltó fórumot biztosítson.
A folyóirat közlésre befogad tanulmányokat hazai és külföldi szerzőktől – magyar, angol és német nyelven. A tudományos tanulmányok mellett kritikus, önálló véleményeket is tartalmazó könyvismertetések és beszámolók is helyet kapnak a lapban.
A beérkezett tanulmányokat két bíráló lektorálja szakmailag. Az idegen nyelvű tanulmányokat anyanyelvi lektor is javítja, nyelvtani és stilisztikai szempontból.
A folyóirat online verziója szabadon letölthető (open access).

Kiadó: Károli Gáspár Református Egyetem Állam- és Jogtudományi Doktori Iskola
Székhely: 1042 Budapest, Viola utca 2-4
Felelős Kiadó: Tóth J. Zoltán

A tipográfia és a nyomdai előkészítés: Csernák Krisztina (L'Harmattan) munkája
Nyomdai kivitelezés: Prime Rate Zrt., felelős vezető: Tomcsányi Péter

Honlap: https://ajk.kre.hu/index.php/jdi-kezdolap.html
E-mail: doktori.ajk@kre.hu
ISSN 3057-9058 (Print)
ISSN 3057-9392 (Online)
URL: KRE ÁJK - Studia Iuris
https://ajk.kre.hu/index.php/kiadvanyok/studia-iuris.html

LEGALLY SOUTHERN
A JOGI DÉL

Aktham Raed Ahmad Alqattamin[1]

ABSZTRAKT ■ A társadalmak kormányzását és egymással való viszonyait régóta élénk vita övezi. Az egyéni 'önérdek' vezérli cselekedeteinket, azonban ezen törekvéseink gyakran ütköznek mások céljaival és szabadságával. E feszültség adja a 'jog' és a 'joguralom' fogalmának alapját – egy olyan keretrendszerét, amely lehetővé teszi az egyéni érdekek érvényesülését szigorú és 'pártatlan' szabályozás mellett. Az az elv, miszerint 'senki sem állhat a törvény felett', történelmileg az egyéni szabadságjogok védelmét és a hatalmi túlkapások korlátozását szolgálta. Ugyanakkor a 'hatalom' és a 'jog' gyakran konfliktusba kerül, hiszen a hatalom birtokosai hajlamosak a jogi korlátokat megkerülni vagy figyelmen kívül hagyni. A modern nemzetközi jog célja a joguralom globális kiterjesztése – az az eszme, hogy egyetlen 'állam' sem állhat a törvény felett. De vajon ez tükrözi a mai nemzetközi jogi valóságot?
Jelen tanulmány a nemzetközi jogrendet és a 'nemzetközi joguralom' lehetőségét vizsgálja, különös tekintettel a domináns 'centrumok' és a marginalizált 'perifériák' közötti hatalmi viszonyokra, a 'centrum–periféria modell' szemszögéből. Empirikus esettanulmányok segítségével tárja fel, miért maradnak egyes országok és térségek kizárva a teljes jogi védelemből és a joghoz való hozzáférésből – gyakorlatilag 'jogilag délivé' téve őket a globális jogrendben.

Kulcsszavak: joguralom, jog általi uralom, egyenlőtlenség, globalizáció, nemzetközi jog, centrum–periféria viszony

ABSTRACT ■ The governance of societies and their interactions has long been a subject of debate. Driven by 'self-interest', we seek what benefits us, but this often conflicts with others' pursuits and freedoms. This tension underpins 'law' and 'the rule of law' – a framework allowing individual interests under strict, 'impartial' regulation. The principle that 'no one is above the law' has historically protected individual freedoms and prevented 'overreach'. Yet, 'power' and 'law' often clash, with those in power seeking to disregard or evade legal

[1] PhD candidate at the Deák Ferenc Doctoral School of Political Science and Law, University of Miskolc. Supervisor: Prof. Dr. Miklós Szabó, Professor Emeritus at the Deák Ferenc Doctoral School of Political Science and Law, University of Miskolc.

constraints. In modern times, International law aspires to extend 'the rule of law' globally, asserting that no 'state' should stand above the law. But is this the global legal landscape of today? This study examines the international legal order and the potential of a 'rule of international law', focusing on power dynamics between dominant 'centers' and marginalized 'peripheries' through the lens of the 'Center-Periphery Model'. It incorporates empirical case studies through which we may explore why some nations and regions remain excluded from complete legal protection and access to rights, effectively rendering them 'legally southern' – marginalized within the global legal order.

Keywords: rule of law, rule by law, inequality, globalization, international law, center-periphery dynamics

1. The Rule of Law – Tool or Constraint?

The rule of law ideal is foundational in legal and political theory. At the national or domestic level, society is governed by constitutional laws rather than by arbitrary decisions or personal whims. In this conception, everyone – individuals and institutions alike, particularly government officials – is bound by and must answer to the law. As articulated by the United Nations, the rule of law is defined as *"a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and procedural and legal transparency".*[2] The rule of law is often stated as 'no one is above the law'.

Before proceeding, it is essential to clarify how the term 'law' is employed throughout this paper. The concept is understood both narrowly – as encompassing formal statutes, constitutional frameworks, institutional arrangements, and international treaties, for instance – and broadly, to include philosophical, moral, and religious traditions that have historically governed conduct and legitimized authority. While these sources vary in origin and form, they share a common function and aspiration: to restrain arbitrary power and establish a framework for just governance. In that sense, 'law' is treated here as the leash on power – an

[2] United Nations: The rule of law and transitional justice in conflict and post-conflict societies (Report of the Secretary-General, UN Doc. S/2004/616,4). United Nations, 2004, August 23. http://archive.ipu.org/splz-e/unga07/law.pdf. Last visited: May 12, 2025.

agreed set of norms, legal codes, or rules limiting the whims of those who wield authority. Readers may interpret the term contextually, as each section may draw more heavily on one dimension than another. Nonetheless, this paper's primary concern lies with the rule of law in its core sense: law, however interpreted, acting as a check on power, rather than a tool of it.

This section revisits selected moments, events, and figures that collectively shaped our contemporary understanding of governance, law, and its rule. The rule of law remains a debated and at times elusive concept, raising ongoing questions about its meaning and theoretical framing. Accordingly, the second part of this chapter will turn to prominent legal scholars and the models they have developed, offering a more modern and conceptual reading of the rule of law. The final part of the chapter will briefly contrast the national (municipal or domestic) and international legal orders, assessing how far the rule of law extends within each.

1.1. How Did Law Come to Rule? Historical Development of the Principle

Historically, the idea that law should constrain rulers (i.e., power) can be traced back through many legal traditions. In ancient Greece, Aristotle's *Politics* argued against arbitrary rule, laying the groundwork for later ideas of constitutionalism, asserting: *"He therefore who recommends that the law shall govern seems to recommend the God and reason alone shall govern, but he that would have man govern adds a wild animal also; for appetite is like a wild animal, and also passion wraps the rule even of the best men. Therefore the law is wisdom without desire".*[3] This perspective underscores the belief that law, embodying reason and impartiality, should govern to prevent the caprices of human passion. Similarly, Jesus Christ emphasized the enduring authority of law, notably in his Sermon on the Mount. He stated: *"Do not think that I have come to abolish the Law or the Prophets; I have not come to abolish them but to fulfill them. For truly, I say to you, until heaven and earth pass away, not an iota, not a dot, will pass from the Law until all is accomplished. Therefore whoever relaxes one of the least of these commandments and teaches others to do the same will be called least in the kingdom of heaven, but whoever does them and teaches them will be called great in the kingdom of heaven".*[4] In this passage, Jesus affirms the supremacy of law and its role in shaping moral conduct. By declaring that not even the smallest element of the law will pass away until its fulfillment, he reinforces the notion that law

[3] Aristotle: *Politics*. Translated by H. Rackham. Cambridge, MA, Harvard University Press, 1944, 265. (Original work written approximately 350 B.C.)

[4] *Holy Bible*. English Standard Version. Crossway Bibles, 2001. (Matthew 5:17–19.)

stands as a lasting framework for upright living, offering enduring guidance and a path to righteousness.

Over the ensuing millennia, Western legal thought added to these roots. In England, the 'Magna Carta' of 1215 famously limited royal power and affirmed that the king was subject to the law, establishing an early statement of legal equality.[5] In the Enlightenment, thinkers like John Locke and Samuel Rutherford invoked the rule of law to argue against tyranny. Rutherford's 'Lex, Rex' (law is the king) (1644) challenged the divine right of kings and asserted that even monarchs must obey established law.[6] Locke further developed these ideas, emphasizing that legitimate government must be based on the consent of the governed and operate within the bounds of law; he famously stated, *"Wherever law ends, tyranny begins"*.[7] He also defined what freedom under governance is: *"Freedom of men under government is to have a standing rule to live by, common to every one of that society, and made by the legislative power erected in it; a liberty to follow my own will in all things, where that rule prescribes not: and not to be subject to the inconstant, uncertain, arbitrary will of another man"*.[8] By the 19th century, legal scholars like A.V. Dicey defined the rule of law in terms of the *"absolute supremacy or predominance of regular law, over arbitrary power"*,[9] emphasizing equal subjection of all classes to the law. This historical evolution finds a distinct expression in the German 'Rechtsstaat' tradition, shaped in part by the liberal political philosophy of Immanuel Kant.[10] In this tradition, the rule of law, 'Rechtsstaatlichkeit', is not only about procedural order but also about institutional safeguards against arbitrary power. Codified in the German constitution 'Grundgesetz' after the collapse of Nazi rule, it embodies a legal culture in which public authority is bound by law, human dignity is inviolable, and judicial review functions as a structural check against the dangers of law's misuse – as once witnessed under the formal yet deeply unjust legalism of the Third Reich.[11] Briefly, Western (European)

5 James C. Holt: *Magna Carta*. 2nd ed. Cambridge University Press, 1992.

6 Samuel Rutherford: *Lex, Rex, or The law and the prince: A dispute for the just prerogative of king and people.* Robert Ogle and Oliver & Boyd, 1843. (Original work published 1644.)

7 John Locke: *Two Treatises of Government*. P. Laslett, Ed., Sec. 202. Cambridge University Press, 1988, 400. (Original work published 1689.)

8 Ibid. Sec. 22, 302.

9 Albert V. Dicey: *Introduction to the Study of the Law of the Constitution*. 8th ed. London, Macmillan and Co., 1915, 120–122. (Original work published 1885.)

10 Immanuel Kant: *The metaphysics of morals*. Translated by M. Gregor. Cambridge University Press, 1996. (Original work published 1797.)

11 For a detailed insight into the German Rechtsstaat tradition, see Matthias Koetter: Rechtsstaat und Rechtsstaatlichkeit in Germany. In: M. Koetter – G.F. Schuppert (eds.): Understandings of the Rule of Law in Various Legal Orders of the World. *Rule of Law*

history gradually developed a formal ideal that government itself must be bound by general rules.

Other legal traditions contributed profoundly to this idea. In particular, the rise of Islamic legal systems in the 7th–8th centuries transformed the legal landscape of the Middle East and beyond. Islamic law 'Shari'ah', grounded in the Qur'an and the Prophet Muhammad's teachings 'Sunna', is supreme, reflecting a strong notion of divine law rather than the authority of any human ruler. Qur'an repeatedly urges justice, fairness, and equality before God. For example, one verse reads: *"People, We created you all from a single man and a single woman, and made you into races and tribes so that you should recognize one another. In God's eyes, the most honoured of you are the ones most mindful of Him: God is all knowing, all aware"* (Qur'an, 49:13). Another verse reinforces the imperative to adjudicate only by divine law: *"So [Prophet] judge between them according to what God has sent down. Do not follow their whims"* (Qur'an, 5:49).[12] Islamic reforms instituted new rules aimed at eliminating outrages of the preceding tribal age. While slavery was not immediately abolished, the Qur'an affirmed the humanity and spiritual equality of slaves, mandating their fair treatment – if retained as labor – and actively encouraging their manumission (freeing of slaves). As Bernard Lewis notes, Qur'anic legislation brought about two striking innovations: it instituted a presumption of freedom and forbade enslaving free people. In practice, this meant that slavery became the exceptional status, and manumission was strongly encouraged as a pious act.[13] Similarly, women and non-Arab peoples were accorded legal rights previously denied to them in many pre-Islamic societies.[14] Furthermore, the Prophet's first 'constitution', 'Mithaq al-Madinah' (The Madinah Charter),[15] created a multi-religious polity in Al-Madinah Al-Munawwara based on mutual obligations rather than tribal allegiance, effectively subjecting all components of society, even Muslims, to a codified communal law.[16] One of his paramount speeches

Working Paper Series, 2010 (1). http://wikis.fuberlin.de/download/attachments/29556758/Koetter+Germany.pdf.

12 For the English Translation of the Qur'an, see *The Qur'an* (M.A.S. Abdel Haleem, trans.). Oxford University Press, 2008.

13 Bernard Lewis: *Race and Slavery in the Middle East: An Historical Enquiry*. Oxford University Press, 1990.

14 Timur Kuran: The Rule of Law in Islamic Thought and Practice: A Historical Perspective. In: J. Heckman et al. (eds.): *Global Perspectives on the Rule of Law*. Taylor & Francis Group, 2010, 74.

15 Mithaq Al-Madinah was referred to as "the world's first constitution" by Dr. Muhammad Hamidullah. See Muhammad Hamidullah: *The Prophet's Establishing a State and His Succession*. Adam Publishers & Distributors, 2006, 41–42.

16 Badruddin Ishak – Shamrahayu Binti Ab Aziz: The Madinah Charter in Light of a Modern Constitution. *IIUM Law Journal*, 2022 (1), 195–220. https://doi.org/10.31436/iiumlj.v30i1.713.

about equality, rights, and human rights, among other ethical and communal preachings, that must be referred to here is his 'Farewell Sermon'.[17] During his last public address, Prophet Muhammad ended his sermon with the following excerpt: *"O people, your Lord is one, and your father is one: all of you are from Adam, and Adam was from the sand. The noblest of you in Allah's sight is the most God-fearing: Arab has no merit over non-Arab other than taqwa (piety). Have I given the message? O Allah, be my witness."*[18] This public speech, often considered a human rights charter, emphasizes that one's status before the law (Allah) is determined solely by righteousness and piety, not lineage, ethnicity, or any other consideration. Additionally, the Prophet reportedly asserted in a case involving theft that even if his own daughter (Fatima) had committed the crime, he would enforce the prescribed punishment, underscoring the impartial rule of law irrespective of personal connections or social standing.[19] In summary, the early Islamic era introduced new egalitarian norms: all people – rulers and ruled alike – stood before a higher law of God, and human authorities were expected to enforce justice and compassion.

The Islamic tradition, much like its Western (European) counterpart – among many other nations and peoples – has long championed a legal framework where law governs society and safeguards the vulnerable, eschewing despotic personal rule. This shared commitment across civilizations underscores a universal recognition: left unchecked, human nature will probably be inclined toward injustice, and unbridled power can lead to tyranny. Historical narratives from diverse cultures reveal a common understanding that justice and fairness are not innate outcomes of power but require deliberate legal structures. This collective insight gave rise to the moral imperative of the rule of law, a principle embraced globally as the rational path toward a more just world. These deep historical foundations converge in the contemporary conception of the rule of law as a political idea. It represents a collective human endeavor to create societies where laws, not individuals, wield ultimate authority, ensuring justice, curbing the excesses of power, and fostering a world where fairness prevails.

[17] To grasp an insight into the importance of this sermon and its impact on the Middle East and beyond, see Mohammad O. Farooq: The Farewell Sermon of Prophet Muhammad: An Analytical Review. *Islam and Civilisational Renewal*, 2018 (3), 322–342. https://doi.org/10.2139/ssrn.3068417. Yusuf Abdul Azeez – Abdullahi S. Ishola: The Farewell Address of Prophet Muhammad: Universal Declaration of Human Rights. *Malaysian Journal of Syariah and Law*, 2018 (3), 11–23.

[18] Ibid. 15–16.

[19] Yahya Al-Nawawi: *Riyad as-Salihin*. The Book of Prohibited Actions, Hadith 1770. Sunnah.com. Retrieved from https://sunnah.com/riyadussalihin:1770.

1.2. A Controversial Concept

As seen above, throughout history, humanity has consistently demonstrated an inclination to reject tyranny and recognize the inherent flaws in human judgment. This acknowledgment has led to the understanding that while individuals are fallible, legal regulations can serve as enduring and equitable guides for governance and social interaction when crafted with impartiality and foresight. This foundational belief underpins the principle that 'no one is above the law', a central point of the rule of law. In its classical articulation, this principle asserts that both rulers and the ruled are equally bound by publicly known, general laws, thereby preventing the arbitrary exercise of power.

Despite this shared vision, legal theorists have swirled into a debate over the precise contours of the rule of law, leading to the emergence of two primary schools of thought: the 'formal' and the 'substantive' conceptions. Examining this debate is essential for a clearer understanding of the rule of law and for proposing how its prevailing interpretation might be meaningfully extended to the international sphere.

According to the formal conception of the rule of law, the focus is on procedural qualities of a legal system that allow people to know and follow the law; the keyword here is 'predictability'. Joseph Raz distilled this approach by identifying a set of formal criteria: laws must be general, clear, public, prospective, and stable; legislative powers must be delimited; courts must be independent and accessible; and executive discretion must be limited. These conditions function like the *"sharpness of a knife"*, according to Raz – they make the legal order effective or 'legally-ordered,' but are in themselves 'morally neutral,' useful either for justice or oppression.[20] Friedrich Hayek likewise insisted that the rule of law requires law to be general, known, and applied equally, so that individuals can 'conjecturally coordinate' their actions without fear of sudden arbitrariness.[21] Lon Fuller elaborated what he called the *"inner morality of law"*, a similar list of essential features (generality, clarity, consistency, etc.) that legal rules must have in order to guide behavior.[22] H.L.A. Hart viewed the rule of law (rule of recognition as he termed it) as implicit in any legal system that relies on rules: laws

[20] Joseph Raz: The Rule of Law and Its Virtue. In: *The authority of law: Essays on law and morality*. Oxford University Press, 1979, 210–229. https://doi.org/10.1093/acprof:oso/9780198253457.003.0011.

[21] See Friedrich A. Hayek: *The Constitution of Liberty*. Routledge, 1960. Friedrich A. Hayek: *Law, legislation and liberty*. Volume 1. Rules and order. University of Chicago Press, 1973.

[22] Lon L. Fuller: The Morality That Makes Law Possible. In: *The Morality of Law: Revised Edition*. Yale University Press, 1969, 33–94. http://www.jstor.org/stable/j.ctt1cc2mds.6.

must be publicly promulgated and relatively stable so that people can conform their conduct to legal standards.[23] In sum, the formal view treats the rule of law as a framework of neutral procedures and structures – a governance by law, not by arbitrary power – without committing to any particular substantive values beyond the formal requisites themselves.

By contrast, the substantive conception of the rule of law holds that it carries moral or rights-based content beyond mere form. Ronald Dworkin contended that integrity is a fundamental aspect of law, asserting that law is inevitably entangled with principles of justice and rights; a purely procedural view is hollow if the content of the law is unjust or arbitrary.[24] He conceptualized the rule of law: *"It assumes that citizens have moral rights and duties with respect to one another, and political rights against the state as a whole. It insists that these moral and political rights be recognized in positive law, so that they may be enforced upon the demand of individual citizens through courts or other judicial institutions of the familiar type, so far as this is practicable. The rule of law on this conception is the ideal of rule by an accurate public conception of individual rights. It does not distinguish, as the rule book conception does, between the rule of law and substantive justice; on the contrary it requires, as part of the ideal of law, that the rules in the book capture and enforce moral rights".*[25] In other words, the rule of law can encompass both legally-ordered procedures and a commitment to justice without compromising its theoretical conception by merging it with other legal ideals and virtues (i.e., justice, fairness, …). Carmen Pavel similarly describes the rule of law as a moral idea that is capable of incorporating fundamental rights and freedoms, while preserving its essential nature, contrary to formalist concerns.[26] The substantive perspective asks: even if the mechanics of law are well-ordered, do the laws themselves safeguard individual dignity, equality, and basic liberties? Substantive-oriented scholars enrich the rule of law with the notion that law must substantively respect rights and constrain power, not simply operate predictably. In this context, Jeremy Waldron warns that a legal system lacking substantive rights content

[23] Herbert L. A. Hart: *The concept of law*. 2nd ed. Oxford University Press, 1994, 100–123. (Original work published 1961.)

[24] Ronald Dworkin: *Law's Empire*. Harvard University Press, 1986, 176–275.

[25] Ronald Dworkin: *A Matter of Principle*. Harvard University Press, 1985, 11–12. https://doi.org/10.2307/j.ctv1pncpxk.

[26] Carmen E. Pavel: The international rule of law. *Critical Review of International Social and Political Philosophy*, 2019 (3), 332–351. https://doi.org/10.1080/13698230.2019.1565714. Carmen E. Pavel: The International Rule of Law. *Critical Review of International Social and Political Philosophy*. Advance online publication, 2019, 12–13. https://doi.org/10.1080/13698230.2019.1565714. (The two are the same article; however, the latter is the online version that is easier to access.)

risks legitimizing unjust laws under a facade of procedural legality, effectively endorsing a framework that appears sound but is morally deficient.[27] Similarly, John Finnis posits that the rule of law must aim for the common good and human dignity, asserting that laws devoid of moral substance fail to achieve their primary purpose of guiding rational and just behavior. Finnis asserts that *"The Rule of Law is thus among the requirements of justice or fairness".*[28]

The two camps diverged in their theoretical interpretations of the rule of law, with formalists insisting on a clear separation between the rule of law and other legal ideas. Despite this difference, both sides acknowledged that a legally structured rule of law could establish a formal framework for governance but would not necessarily ensure that the laws themselves are just or morally sound.[29] This distinction is significant for this paper's stance, as it leans toward a bounded substantive interpretation of the rule of law: one that maintains procedural order, while recognizing a minimal set of basic rights and justices. Keeping in mind that the enduring struggle since antiquity for the law to rule has been to prevent tyranny and injustice by restraining arbitrary power, not empowering it.

This conflict of opinions may help us shed light on a critical contrast between the two concepts: the 'rule of law' and the 'rule by law.' The rule of law, in its agreed-upon form, entails that law functions as a constraint on power, ensuring fairness in procedures and the protection of individual rights and liberties.[30] By contrast, 'rule by law' signifies the instrumentalization of legal mechanisms by those in power to reinforce their authority. In such systems, law exists not to restrain but to serve rulers' interests. Authoritarian regimes often maintain courts, constitutions, and legal codes that outwardly reflect the structure of lawful governance but, in practice, selectively apply these laws to suppress dissent and entrench political dominance.[31] As B. Z. Tamanaha aptly notes, rule by law is not a commitment to legality but a manipulation of it – using law as a tool to rule rather than being governed by it.[32]

[27] Jeremy Waldron: *The rule of law and the measure of property*. Cambridge University Press, 2012, 12–14.

[28] John Finnis: *Natural Law and Natural Rights*. Oxford University Press, 1980, 273.

[29] Raz 1979, 226; Dworkin 1985, 11–12; Lon L. Fuller: *The Morality of Law: Revised Edition*. Yale University Press, 1969, 157–158. http://www.jstor.org/stable/j.ctt1cc2mds.6.

[30] Arthur Watts: The International Rule of Law. *German Yearbook of International Law 36*, 1993, 23; Fuller 1969, 157–158.

[31] Steven Levitsky – Lucan A. Way: *Competitive Authoritarianism: Hybrid Regimes After the Cold War*. Cambridge University Press, 2010, 27–28.

[32] Brian. Z. Tamanaha: *On the Rule of Law: History, Politics, Theory*. Cambridge University Press, 2004, 91–96.

Much like Raz's sharp knife – capable of healing or harming – a well-structured legal system can either uphold justice or enable oppression. The rule of law, as a formal idea, aims to restrain power and protect rights, but it offers no inherent safeguard against injustice. This tension is starkly visible in international law, where dominant states often champion legal norms while simultaneously exempting themselves, turning law into a tool of strategic advantage instead of a constraint for power.

1.3. The Rule of Law and the Rule of International Law

The discussed perspectives over the theoretical meaning of the rule of law – and the contrasting outcomes of using law as either a constraint or a tool – can guide us in examining the ideal across two dimensions: the national and the international. A brief comparison of these two realms reveals key differences in how law and its rule operate within each context.

At the national (domestic/municipal) level, the rule of law is more than a procedural framework – it is a deeply rooted institutional and social order aimed at stabilizing social relations, structuring authority, and shielding individuals from arbitrary power.[33] Constitutional governance itself has been characterized as a by-product of the rule of law.[34] Within the national legal architecture, the state acts simultaneously as regulator and guarantor, vested with the authority to enforce laws that apply uniformly to all within its jurisdiction. This dual character requires that laws be general, knowable, and consistently applied, allowing individuals to plan their affairs with confidence and minimal fear of arbitrary interference.[35] Citizens are not asked to actively consent to this framework; rather, they are bound by the conditions of legal subjecthood, which confers both obligations and protections under law.[36]

The centralized authority, i.e., the state itself, is subordinated to legal norms at the national level, and all public officials are answerable before the same courts as ordinary citizens.[37] Courts exercise compulsory jurisdiction over disputes, and remedies generally follow predictable procedures, reinforcing the normative expectation that justice is not subject to the will of the powerful. However, where

[33] Ian Hurd: The International Rule of Law and the Domestic Analogy. *Global Constitutionalism 4*, 2015, 368, doi:10.1017/S2045381715000131.
[34] Finnis 1980, 272.
[35] Fuller 1969, 39–40; Hart 1994, 124–126.
[36] Locke 1988, 291.
[37] Waldron 2012, 6; Tamanaha 2004, 34.

ambiguity exists, legal culture – particularly in liberal democracies – presumes in favor of individual liberty, as the absence or the ambiguity of law is not a license for authority, but a safeguard for the citizen.[38]

In contrast, international law rests on a fundamentally different foundation. Its primary subjects are sovereign states, not private individuals. While international law aims to regulate state behavior in a manner that resembles how national law governs individuals – through general, promulgated rules – it is important to recognize a key distinction. Private individuals are not responsible for shaping or enforcing the national legal framework they are subject to, whereas in the international realm, states act both as subjects and as 'sources' and 'officials' of international law.[39] Jeremy Waldron cautions against what he calls a 'tempting but misconceived' analogy between individuals under domestic law and states under international law, arguing that while the structural resemblance is appealing, it overlooks essential differences in how responsibility, authority, and legal obligation are distributed.[40]

When it comes to the subjection of states to international law, their participation is fundamentally voluntary. States join treaty regimes or become bound by customary norms through explicit consent or consistent practice accompanied by a sense of legal obligation.[41] As codified in Article 34 of the Vienna Convention on the Law of Treaties, *"A treaty does not create either obligations or rights for a third State without its consent".*[42] This principle highlights a key difference from domestic legal systems: whereas domestic law is vertically structured under a centralized sovereign authority, international law is horizontal – there is no overarching global sovereign with the power to compel compliance. Instead, international legal norms operate only insofar as states accept and adhere to them.[43] Accordingly, the international legal order is fundamentally characterized by the equality of sovereign states (at least formally) and a decentralized enforcement structure. This framework relies on consensual mechanisms – such as United Nations resolutions, international court judgments, and diplomatic or economic sanctions – rather than on any centralized coercive authority. The absence of a global enforcer highlights the essential role of mutual consent and cooperation among states

38 Jeremy Waldron: The Rule of International Law. *Harvard Journal of Law & Public Policy*, 2006 (1), 17.

39 Ibid. 23.

40 Ibid. 20.

41 Pavel 2019, 4–5.

42 United Nations: Vienna Convention on the Law of Treaties, Art. 34. United Nations Treaty Series. Vol. 1155, 1969, 331. Retrieved from https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf. Last visited: May 20, 2025.

43 Pavel 2019, 4–5.

in maintaining and upholding international legal norms. This aspect will come in handy later in this paper when examining how a capable state can maneuver within this structure to effectively weaponize international law.

Many have noted that one cannot simply import the principle of the rule of law as rooted in national constitutional traditions into the international realm. For example, Gorobets emphasizes that the national rule of law was *"forged in the flame of civil wars and struggles against the absolute powers of kings"* – experiences that international society has never known.[44] There is no global population waging wars for constitutionalism; instead, the international order rests on reciprocal consent and power balances. Nevertheless, international law does impose some normative constraints on states (e.g., prohibitions on aggression or genocide, trade obligations, human rights treaties, etc.), and scholars like Carmen Pavel argue that it should ultimately serve to protect individuals as well as states. Pavel has argued that legitimate international rule of law must view state sovereignty instrumentally, insofar as sovereignty protects individual autonomy – a perspective that shifts emphasis away from states as ends in themselves.[45] Hence, while national law binds people without explicit consent, international law binds states only by their expressed consent, reflecting fundamentally different relationships between law and its subjects.

In sum, the rule of law stands as a foundational ideal affirming that law, not arbitrary will, should govern society, and this law must apply impartially to all, rulers included. Rooted in diverse traditions from Aristotle to Islamic jurisprudence to the modern views, the principle has evolved into both formal and substantive conceptions. While theorists such as Raz have clarified its structural features – generality, clarity, and predictability – others remind us that law must also constrain power and protect rights. In national settings, the rule of law operates through a centralized sovereign, binding individuals regardless of consent. By contrast, international law is horizontal and consent-based, its authority often undermined by the influence of powerful states. The distinction between the rule of law and rule by law underscores this vulnerability: legal norms may be used not to restrain power, but to legitimize it. Understanding these tensions is critical to grasping why the rule of international law remains an aspirational, rather than a realized idea.

To better assess the possibility of a genuine rule of international law, we now turn to the Center–Periphery model as an analytical lens. This framework allows

[44] Kirill Gorobets: The International Rule of Law and the Idea of Normative Authority. *Hague Journal on the Rule of Law*, 2020 (12), 227–249. https://doi.org/10.1007/s40803-020-00141-3. Also see Hurd 2015, 365–395.

[45] See Pavel 2019, 332–351.

us to explore how structural inequalities in global power distribution shape legal authority, influence norm formation, and determine whose rights are upheld – or overlooked – within the international legal order. By examining international law through this lens, we can more clearly see how legal ideals are filtered through geopolitical hierarchies that privilege some actors while marginalizing others.

2. Non-Geographic locations: The Northern Center and the Southern Periphery

To understand what it means to be 'legally southern,' we must first recognize that 'South' and 'North' in this context are not fixed geographic designations, but structural positions within the global order. The Center–Periphery model offers a powerful lens through which to examine the asymmetries that shape international law, global governance, and access to legal protection. In this framework, the 'Center' refers to those regions, states, and institutions that dominate norm production, enforcement, and interpretation – most often situated in the Global North – while the 'Periphery' denotes those regions and peoples systematically excluded or subordinated within that global political system. This chapter explores the theoretical roots of the Center–Periphery model, not merely as a critique of economic dependency, but as a conceptual tool for understanding how law itself may participate in the reproduction of global hierarchies. By clarifying the structural meaning of the 'Southern' position, we lay the groundwork for examining how the international legal regime can function less as a guarantor of justice than as an instrument of selective legitimacy.

In the 1950s, Argentinian economist Raúl Prebisch, as Executive Secretary of the United Nations Economic Commission for Latin America and the Caribbean (ECLAC),[46] developed the 'Center-Periphery model'. Initially focused on Latin America, this model highlighted disparities in economic activity and power between advanced 'centers/cores' – urban, industrialized regions – and dependent 'peripheries' – less developed areas with limited infrastructure.[47] Prebisch's economic perspective, emphasizing cyclical growth and structural inequalities, laid the groundwork for subsequent critiques and theoretical expansions.

The model evolved into a multidisciplinary framework embraced by sociology, political science, and economics, among other disciplines, to explain global inequalities. It portrays the world divided into dominant centers, which control

[46] United Nations (ECLAC): Prebisch, Raúl. https://www.cepal.org/en/staff/raul-prebisch.

[47] Raúl Prebisch: The Economic Development of Latin America and Its Principal Problems. *ECLAC*, 1950, 1–7.

wealth, political systems, and cultural narratives, and marginalized peripheries, which rely on centers for survival, aid, political legitimacy, etc. This dynamic perpetuates a cycle of dependency, where trade policies, investment flows, and cultural and legal practices reinforce the core's dominance. For instance, peripheral regions often export raw materials and import finished goods, leading to a net outflow of wealth towards the center.[48] Additionally, they may adopt policies favoring the center, such as austerity measures and debt repayments, exacerbating instability.[49]

Scholars like Immanuel Wallerstein expanded on Prebisch's ideas through 'World-Systems Theory',[50] introducing a tripartite division: core, semi-periphery, and periphery. Core regions are affluent and industrialized, dominating global markets and exerting cultural hegemony, and on the other side of the division sits the exploited periphery. Semi-peripheries occupy an intermediate position, with the potential to ascend to core status or descend into the periphery.[51] Wallerstein, influenced by Fernand Braudel's concept of 'longue durée',[52] traced the modern world-system's origins to Europe's capitalist expansion during the 16th century.[53] He emphasized 'unequal exchange', where core nations benefit from acquiring resources and labor at minimal costs, along with maintaining their dominance and hegemony over peripheral areas.[54] Additionally, Wallerstein introduced the idea of 'geoculture', arguing that the dominant center, primarily the West, imposes its ideologies globally to integrate other regions into its logic.[55]

Further contributions from thinkers like Andre Gunder Frank, Samir Amin,[56] Frantz Fanon,[57] and Joseph Stiglitz enriched the model. Frank's

[48] Immanuel Wallerstein: *World-System Analysis: An Introduction*. Duke University Press, 2004, 27–28.

[49] Andrzej Klimczuk – Monika Klimczuk-Kochańska: Core–Periphery Model. In: S. Romaniuk – M. Thapa – P. Marton (eds.): *The Palgrave Encyclopedia of Global Security Studies*. Palgrave Macmillan, 2019, 1–2. https://doi.org/10.1007/978-3-319-74336-3_320-1.

[50] Wallerstein 2004.

[51] Ibid. 27–30.

[52] Ibid. 18.

[53] Ibid. x. Carlos A. Martinez-Vela: World Systems Theory. *ESD*. 2001 (83), 4.

[54] Wallerstein 2004, 13.

[55] Immanuel Wallerstein: The Creation of a Geoculture: Ideologies, Social Movements, Social Science. In: *World-Systems Analysis: An Introduction*. Duke University Press, 2004, 60–75.

[56] Samir Amin: *Accumulation on a World Scale: A Critique of the Theory of Underdevelopment*. Vols. 1 & 2. Trans. B. Pearce. Monthly Review Press, 1974.

[57] Frantz Fanon: *The Wretched of the Earth*. Trans. R. Philcox. Grove Press, 2011. (Original work published 1961) Frantz Fanon: *Black Skin, White Masks*. Trans. R. Philcox. Grove Press, 2008. (Original work published 1952)

research highlighted historical patterns of exploitation and underdevelopment.[58] Amin emphasized the systemic barriers hindering development in peripheral regions, challenging the notion that developing nations can emulate Western industrialization paths. Stiglitz critiqued neoliberal economic policies for deepening disparities between core and peripheral nations.[59] Collectively, such contributions have enriched the dependency theory framework, emphasizing that underdevelopment in peripheral regions is not merely a stage to be overcome but a condition perpetuated by the global power structures.

The expanded scope of the Center-Periphery model, as synthesized here, encompasses several critical characteristics inspired by the broader literature on dependency theory and World-Systems Analysis. 'Relativity': Inequalities are evident across various scales – local, regional, and global – highlighting the model's applicability in diverse contexts.[60] 'Dependence': Peripheral regions often rely on core areas for economic, political, legal, and social functions, a dynamic that perpetuates systemic inequalities.[61] 'Structural Patterns': centers influence the development trajectories of peripheral areas by imposing specific economic structures, political models, and social norms.[62] 'Diverse Impact': The dependency relationship extends beyond economic aspects, affecting political institutions, cultural identities, and societal structures within peripheral regions.[63] 'Fluidity': The designation of regions as 'center' or 'periphery' is not fixed; over time, peripheral areas can ascend to core status, while core regions may experience decline, reflecting the dynamic and evolving nature of global geopolitical hierarchies.[64]

To move from theory to practice, the next chapter turns to a set of empirical case studies that illustrate how the ideal of the rule of law – when reduced to its formal conception – can be manipulated to serve political interests and economic domination. These examples, drawn from the international arena, demonstrate how powerful centers can not only control global economic flows but also instrumentalize legal frameworks to legitimize unjust or oppressive actions against the legally peripherized. Understanding these dynamics is essential

58 Andre. G. Frank: The development of underdevelopment. *Monthly Review*, 1966 (4).
59 Joseph E. Stiglitz: *Globalization and Its Discontents*. W. W. Norton & Company, 2002.
60 Klimczuk – Klimczuk-Kochańska 2019, 1.
61 Theotonio Dos Santos: The Structure of Dependence. *The American Economic Review*, 1970 (2), 231–236.
62 Samir Amin: *Unequal Development: An Essay on the Social Formation of Peripheral Capitalism*. Monthly Review Press, 1976, 104.
63 Wallerstein 2004, 24–41.
64 Ibid.

for developing meaningful reforms that uphold the promise of a more peaceful, just, and civilized international order.

3. The International Playground: Where Power Plays by Its Own Rules

Bringing an end to the atrocities of the two World Wars and reimagining a future grounded in justice and cooperation was, in my view, one of humanity's most rational, noble, and widely supported decisions. The aspiration for a just and law-governed international order – where all states are subject to law – has an almost utopian allure, one so compelling that only bad-faith actors or the truly cynical would openly reject. Through its institutional architecture and proclaimed ideals, international law promised exactly that: a world in which legal principles would transcend power politics. Yet, as the following examples will show, the structure and mechanisms of international law often render it highly susceptible to instrumentalization, allowing it to serve the strategic interests of the powerful rather than the collective good.

The 2003 invasion of Iraq stands as a stark example of how dominant powers maneuver within the international legal system – either by stretching its language to legitimize their conduct or by disregarding its authority altogether.[65] The United States and its allies invoked earlier United Nations Security Council resolutions, particularly Resolution 1441 (2002), which warned Iraq of *"serious consequences"* if it failed to comply with inspections related to its alleged weapons of mass destruction (WMD) programs. The resolution also reiterated obligations stemming from Iraq's 1990 invasion of Kuwait, calling on Baghdad to resolve outstanding issues concerning Kuwaiti sovereignty and regional stability.[66] However, while Resolution 1441 demanded Iraqi compliance, it did not authorize military action without a further decision by the Council, and explicitly reaffirmed the obligation of member states to respect the territorial integrity and sovereignty of both Iraq and Kuwait, as well as that of other states in the region.[67] Despite this, the

[65] Michael Byers: Agreeing to Disagree: Security Council Resolution 1441 and Intentional Ambiguity. *Global Governance*, 2004 (2), 165–186.

[66] United Nations Security Council: *Resolution 1441 (2002) [on the situation between Iraq and Kuwait]* (S/RES/1441). 2002, November 8. https://www.un.org/depts/unmovic/documents/1441.pdf. Last visited: June 9, 2025.

[67] Ibid. 2; Rainer Hofmann: International Law and the Use of Military Force against Iraq. *German Yearbook of International Law*, 2002 (45), 9–34; Michael N. Schmitt: The Legality of Operation Iraqi Freedom Under International Law. *Journal of Military Ethics*, 2004 (2), 82–104. DOI: 10.1080/15027570410006453.

U.S.-led coalition launched a full-scale invasion without securing a new mandate, prompting widespread legal criticism. UN Secretary-General at the time, Kofi Annan, later declared that the war was 'not in conformity with the UN Charter' and therefore it was *"illegal"*.[68] The UK's own 'Chilcot' Report (2016) concluded that military action was *"not a last resort"*, and that the legal basis for war was *"far from satisfactory"*, ultimately undermining the authority of the United Nations.[69] The broader context, often unspoken, reveals deeper strategic interests: President Saddam Hussein, once aligned with U.S. interests during the Iran–Iraq war and other occasions,[70] had become an obstacle to American geopolitical objectives in the Middle East and posed a threat to the continuation of the Israeli occupation of Palestinian lands.[71] His resistance to U.S. influence, much like that of Libya's Mu'ammar Al-Gaddafi, rendered him not just a regional adversary but a target of regime change framed through selective legal justification.

Many other interventions by centers have likewise skirted the boundaries of international law, often bypassing the UN Security Council or invoking contested legal doctrines. Take the case of Saudi-led military intervention in Yemen, which began in 2015 following the ousting of President Abd Rabbuh Mansur Hadi by Houthi rebels. Saudi Arabia, supported by a coalition of regional allies, claimed it was responding to a formal request for assistance by Yemen's recognized government, thereby invoking the principle of collective self-defense under Article 51 of the UN Charter.[72] However, legal scholars have raised serious concerns about this justification. Article 51 permits self-defense only in response to an armed attack, and its applicability in cases of internal conflict – particularly where state authority is disputed – is highly contested.[73] Furthermore, the

[68] BBC News: *Iraq War Illegal, Says Annan.* 2004, September 16. http://news.bbc.co.uk/2/hi/middle_east/3661134.stm. Last visited: June 9, 2025; UN News: *Iraq War Was Illegal and Breached UN Charter, Says Annan*. Sep. 16, 2004. https://news.un.org/en/story/2004/09/115352. Last visited: June 9, 2025.

[69] Iraq Inquiry: *The Report of the Iraq Inquiry: Executive Summary.* HMSO, 2016, 6, 47, 62–63. https://www.gov.uk/government/publications/the-report-of-the-iraq-inquiry. Last visited: June 9, 2025.

[70] Ronald Sale: Saddam–CIA Links (1959–1990). *Peace Research*, 2003 (1), 17–20. Retrieved from https://www.proquest.com/scholarly-journals/saddam-cia-links-1959-1990/docview/213485200/se-2. Last visited: June 9, 2025.

[71] See Steve Coll: *The Achilles Trap: Saddam Hussein, the CIA, and the origins of America's invasion of Iraq*. Penguin Press, 2024, for an in-depth analysis of the shifting and ultimately adversarial relationship between Saddam Hussein and the United States.

[72] United Nations: *Charter of the United Nations, Article 51*, 1945. https://www.un.org/en/about-us/un-charter/full-text. Last visited: June 10, 2025.

[73] Jingxuan Mao – Amjad A. Gady: The Legitimacy of Military Intervention in Yemen and Its Impacts. *Beijing Law Review*, 2021 (12), 560–592. https://doi.org/10.4236/blr.2021.122030.

intervention was launched without explicit Security Council authorization and quickly escalated into a protracted conflict involving widespread aerial bombardments, a blockade, and civilian casualties on a massive scale.[74] UN reports and humanitarian organizations have documented potential violations of international humanitarian law, including attacks on non-military targets.[75] Critics argue that the intervention reflects a broader pattern wherein powerful regional states invoke selective interpretations of international law to pursue geopolitical interests under a veneer of legality, thereby weakening the credibility and coherence of the international legal order.[76]

Another example can be found in the 2011 military intervention in Libya, led by NATO, which was initially authorized by UN Security Council Resolution 1973, which permitted member states to take *"all necessary measures"* to protect civilians under threat from Gaddafi's forces.[77] However, critics contend that the operation exceeded its mandate by effectively pursuing regime change rather than civilian protection.[78] The intervention has since been cited as an example of how humanitarian pretexts can be used to mask geopolitical objectives.

Such examples illustrate how military force can be paired with legal rhetoric – such as humanitarian intervention, responsibility to protect (R2P), counterterrorism, or even spreading democracy and 'freeing' peoples – to claim a veneer of legitimacy while circumventing established mechanisms of collective international decision-making. They highlight the fragility of the international legal order when powerful states act unilaterally or selectively interpret legal norms to justify the use of force, provoking serious questions about the seriousness of international law, let alone its rule.

Beyond the toppling of regimes, contemporary centers often sustain the legacy of colonialism through institutional means. Postcolonial dynamics persist not

[74] Tom Ruys – Lars Ferro: Weathering the Storm: Legality and Legal Implications of the Saudi-Led Military Intervention in Yemen. *The International and Comparative Law Quarterly*, 2016 (1), 61–98. http://www.jstor.org/stable/24761357.

[75] Annyssa Bellal (ed.): *The war report 2016: Armed conflicts in 2016.* Geneva Academy of International Humanitarian Law and Human Rights, 2016, 104–109, https://www.adh-geneve.ch/joomlatools-files/docman-files/The%20War%20Report%202016.pdf. Last visited: June 10, 2025.

[76] Themistoklis Tzimas: Legal Evaluation of the Saudi-Led Intervention in Yemen. *ZaöRV*, 2018 (78), 147–187.

[77] United Nations Security Council: *Resolution 1973 (2011) [on the situation in Libya]* (S/RES/1973), 2011, March 17. https://docs.un.org/en/S/RES/1973%20(2011). Last visited: June 9, 2025.

[78] Horace Campbell: *Global NATO and the Catastrophic Failure in Libya*. NYU Press, 2013, 115–124; Reuters: *Polish PM Chides Europe over Libya "Hypocrisy"*. Apr. 9, 2011. https://www.reuters.com/article/world/africa/polish-pm-chides-europe-over-libya-hypocrisy-idUSLDE73806T/. Last visited: June 9, 2025.

only via powerful, coercive nation-states but also through international economic institutions that reproduce unequal exchanges between former colonizers and formerly colonized regions. In today's globalized landscape, the very promise of development has become a vehicle for underdevelopment – sustaining structural dependency and reproducing the periphery it claims to uplift.[79]

International institutions such as the International Monetary Fund (IMF), World Bank, and World Trade Organization (WTO) exemplify this institutionalized center–periphery bias. Programs and agreements under their frameworks frequently embed conditions that serve the interests of wealthier states and corporations under the banner of 'economic integration' or 'development assistance'.[80] For instance, the IMF and the World Bank Structural Adjustment Programs (SAPs) imposed on African states during the 1980s and 1990s required cuts to public services, deregulation, and a shift toward export-driven economies.[81] Ghana, one of the earliest adopters of SAPs, followed IMF-prescribed reforms that included currency devaluation, trade liberalization, and extensive privatization. While these measures attracted donor support and temporarily improved macroeconomic indicators, they also resulted in widespread job losses, deteriorated healthcare and education systems, and increased dependency on raw commodity exports – leaving the country vulnerable to global price shocks and weakening its long-term development trajectory.[82]

At the WTO, similar structural imbalances persist. For instance, wealthy countries maintain subsidies for their own agricultural sectors while pressuring poorer nations to lower tariffs[83] and enforce strict intellectual property regimes

79 See Arturo Escobar: *Encountering Development: The Making and Unmaking of the Third World*. Princeton University Press, 1995; Walter Rodney: *How Europe Underdeveloped Africa*. Bogle-L'Ouverture Publications, 1972.

80 See Ha-Joon Chang: *Kicking away the ladder: Development strategy in historical perspective*. Anthem Press, 2002; Stiglitz 2002; Deepa Kapur – Richard Webb: Governance-related Conditionalities of the IFIs. G-24 Discussion Paper Series, (TD/UNCTAD(05)/D611/no.6). Geneva, *UNCTAD*, 2000 (6), 1–21. https://digitallibrary.un.org/record/421580?ln=en&v=pdf. Last visited: June 11, 2025.

81 John Odah: The Impact of Structural Adjustment Programmes on West Africa: The Die is Cast! *International Union Rights*, 2017 (1), 22–23. https://dx.doi.org/10.1353/iur.2017.a838367.

82 Kwaku Konadu-Agyemang: The Best of Times and the Worst of Times: Structural Adjustment Programs and Uneven Development in Africa: The Case of Ghana. *The Professional Geographer*, 2000 (3), 469–483. For an in-depth analysis of how the United States has engineered, dominated, and strategically utilized global financial institutions and legal frameworks to pursue its imperial objectives without relying on territorial conquest, see Michael Hudson: *Super Imperialism: The Economic Strategy of American Empire*. Holt, Rinehart and Winston, 1972.

83 Robert. H. Wade: What Strategies are Viable for Developing Countries Today? The World Trade Organization and the Shrinking of 'Development Space.' *Review of International Political Economy*, 2003 (4), 621–644. https://doi.org/10.1080/0969229031000160190 2.

that make essential medicines unaffordable in the Global South.[84] Though framed as neutral legal rules, such practices reinforce a global economic hierarchy. Critics argue that the trade regime functions as a legal mechanism for preserving an outdated center–periphery divide, where the core sets the rules and the periphery complies or is penalized.[85] In this light, 'free trade' and debt relief are not instruments of emancipation but legal tools of economic dominance.[86]

These patterns reveal a sobering truth: international law, for all its lofty ideals, has not escaped the gravitational pull of power. Whether through interventions cloaked in humanitarianism or exploitive economic programs framed as development routes, international law is too often a tool, not a constraint. The cases discussed here are illustrative, not exhaustive; listing all the legal maneuvers and bypasses would span many papers. From R2P to regime change, and from trade rules to international courts, the pattern holds: law is instrumentalized to serve strategic interests, not justice. Even institutions like the International Criminal Court (ICC) and the International Court of Justice (ICJ) reflect this imbalance. What we see is not the rule of law, but the rule of power by law – a hollow, formal shell that enables the powerful center to thrive while the periphery is disciplined, marginalized, or outright ignored.

4. Conclusion

To be clear, this paper is not a rejection of international law. On the contrary, its promise is deeply aspirational: who wouldn't want to live in a peaceful and just world where all have an equal opportunity to thrive and prosper? But as reality continues to show, international law often amounts to little more than a polished shell of formality – designed to preserve the idea of the rule of law without ever asking whose law it is that rules. Power remains the ultimate ruler in the international arena. And when that power is armed with legal authority, it becomes something more dangerous: not restrained by law, but legitimized by it. As Aristotle warned, adding appetite to authority creates a 'wild animal'. States, like individuals, have appetites and pursue interests, but unlike individuals, they possess a far greater capacity to act without consequence. While I do not uncritically adopt Jeremy Waldron's 'rejected analogy' between individuals and

[84] Susan K. Sell: TRIPS-Plus Free Trade Agreements and Access to Medicines. *Liverpool Law Review*, 2007 (1), 41–75. https://doi.org/10.1007/s10991-007-9011-8.

[85] Amin 1976.

[86] Kenneth C. Shadlen: Exchanging Development for Market Access? *Review of International Political Economy*, 2005 (5), 750–775. https://doi.org/10.1080/09692290500339685.

states, each under their designated legal system, the point remains: when law is ambiguous or absent, it does not protect the system, it empowers the actor. And in the international arena, that actor is the state: often the most capable and least accountable of all.

The examples discussed (and many others left unaddressed) demonstrate how the globalized international legal and economic order can be manipulated. Through selective interpretation of legal texts, the stretching of doctrines and legal language, the invocation of legality to justify strategic interests, or even the utilization of humanitarian interventions to fulfill agendas. We also see how international financial institutions maintain a facade of legality while hollowing out its moral substance, offering development assistance that, in practice, entrenches underdevelopment and keeps the center–periphery dynamic spinning.

The solution is not to abandon the ideals of international law, but to realize them. Its principles must be treated not as rhetorical ornament, but as binding commitments. This demands a rebalancing of power among the subjects of international law and the establishment of a global sovereign capable of ensuring compliance and upholding rights equally under its jurisdiction. Following the vision of thinkers like Carmen Pavel, we must move beyond treating states as ends in themselves and refocus on individuals as the true bearers of rights and dignity. Such a transformation would require states to cede aspects of their sovereignty and reimagine the very structure of international relations. But only through such a shift can we begin to fulfill the vision international law claims to uphold: a world where every human being lives in dignity and peace.

The eloquent promises of international law still hold potential, if reshaped into a system that is not only formally ordered and substantively just, but also actual in application and effective in practice. Only then may we truly speak of the rule of international law and begin to say that no one remains 'Legally Southern'.

Bibliography

Yahya Al-Nawawi: *Riyad as-Salihin*. The Book of Prohibited Actions, Hadith 1770. Sunnah.com. Retrieved from https://sunnah.com/riyadussalihin:1770.

Samir Amin: *Accumulation on a World Scale: A Critique of the Theory of Underdevelopment*. Vols. 1 & 2. Trans. B. Pearce. Monthly Review Press, 1974.

Samir Amin: *Unequal Development: An Essay on the Social Formation of Peripheral Capitalism*. Monthly Review Press, 1976.

Aristotle: *Politics*. Translated by H. Rackham. Cambridge, MA, Harvard University Press, 1944.

Yusuf Abdul Azeez – Abdullahi S. Ishola: The Farewell Address of Prophet Muhammad: Universal Declaration of Human Rights. *Malaysian Journal of Syariah and Law*, 2018 (3), 11–23.

Annyssa Bellal (ed.): *The war report 2016: Armed conflicts in 2016.* Geneva Academy of International Humanitarian Law and Human Rights, 2016, https://www.adh-geneve.ch/joomlatools-files/docman-files/The%20War%20Report%202016.pdf. Last visited: June 10, 2025.

Michael Byers: Agreeing to Disagree: Security Council Resolution 1441 and Intentional Ambiguity. *Global Governance*, 2004 (2), 165–186.

Horace Campbell: *Global NATO and the Catastrophic Failure in Libya*. NYU Press, 2013.

Ha-Joon Chang: *Kicking away the ladder: Development strategy in historical perspective*. Anthem Press, 2002.

Steve Coll: *The Achilles Trap: Saddam Hussein, the CIA, and the origins of America's invasion of Iraq*. Penguin Press, 2024.

Albert V. Dicey: *Introduction to the Study of the Law of the Constitution*. 8th ed. London, Macmillan and Co., 1915.

Theotonio Dos Santos: The Structure of Dependence. *The American Economic Review*, 1970 (2), 231–236.

Ronald Dworkin: *A Matter of Principle*. Harvard University Press, 1985.

Ronald Dworkin: *Law's Empire*. Harvard University Press, 1986.

Arturo Escobar: *Encountering Development: The Making and Unmaking of the Third World*. Princeton University Press, 1995.

Frantz Fanon: *Black Skin, White Masks*. Trans. R. Philcox. Grove Press, 2008.

Frantz Fanon: *The Wretched of the Earth*. Trans. R. Philcox. Grove Press, 2011.

Mohammad O. Farooq: The Farewell Sermon of Prophet Muhammad: An Analytical Review. *Islam and Civilisational Renewal*, 2018 (3), 322–342.

John Finnis: *Natural Law and Natural Rights*. Oxford University Press, 1980.

Andre. G. Frank: The development of underdevelopment. *Monthly Review*, 1966 (4).

Lon L. Fuller: *The Morality of Law: Revised Edition*. Yale University Press, 1969,

Lon L. Fuller: The Morality That Makes Law Possible. In: *The Morality of Law: Revised Edition.* Yale University Press, 1969, 33–94.

Kirill Gorobets: The International Rule of Law and the Idea of Normative Authority. *Hague Journal on the Rule of Law*, 2020 (12), 227–249.

Muhammad Hamidullah: *The Prophet's Establishing a State and His Succession*. Adam Publishers & Distributors, 2006.

Herbert L. A. Hart: *The concept of law*. 2nd ed. Oxford University Press, 1994.

Friedrich A. Hayek: *Law, legislation and liberty*. Volume 1. Rules and order. University of Chicago Press, 1973.

Friedrich A. Hayek: *The Constitution of Liberty*. Routledge, 1960.

Friedrich A. Hayek: *Law, legislation and liberty*. Volume 1. Rules and order. University of Chicago Press, 1973.

Rainer Hofmann: International Law and the Use of Military Force against Iraq. *German Yearbook of International Law*, 2002 (45), 9–34.

James C. Holt: *Magna Carta*. 2nd ed. Cambridge University Press, 1992.

Holy Bible. English Standard Version. Crossway Bibles, 2001.

Michael Hudson: *Super Imperialism: The Economic Strategy of American Empire*. Holt, Rinehart and Winston, 1972.

Ian Hurd: The International Rule of Law and the Domestic Analogy. *Global Constitutionalism 4*, 2015.

Badruddin Ishak – Shamrahayu Binti Ab Aziz: The Madinah Charter in Light of a Modern Constitution. *IIUM Law Journal*, 2022 (1), 195–220.

Immanuel Kant: *The metaphysics of morals*. Translated by M. Gregor. Cambridge University Press, 1996.

Deepa Kapur – Richard Webb: Governance-related Conditionalities of the IFIs. G-24 Discussion Paper Series, (TD/UNCTAD(05)/D611/no.6). Geneva, *UNCTAD*, 2000 (6), 1–21. https://digitallibrary.un.org/record/421580?ln=en&v=pdf. Last visited: June 11, 2025.

Andrzej Klimczuk – Monika Klimczuk-Kochańska: Core–Periphery Model. In: S. Romaniuk – M. Thapa – P. Marton (eds.): *The Palgrave Encyclopedia of Global Security Studies*. Palgrave Macmillan, 2019.

Matthias Koetter: Rechtsstaat und Rechtsstaatlichkeit in Germany. In: M. Koetter – G.F. Schuppert (eds.): Understandings of the Rule of Law in Various Legal Orders of the World. *Rule of Law Working Paper Series*, 2010 (1).

Kwaku Konadu-Agyemang: The Best of Times and the Worst of Times: Structural Adjustment Programs and Uneven Development in Africa: The Case of Ghana. *The Professional Geographer*, 2000 (3), 469–483.

Timur Kuran: The Rule of Law in Islamic Thought and Practice: A Historical Perspective. In: J. Heckman et al. (eds.): *Global Perspectives on the Rule of Law*. Taylor & Francis Group, 2010.

Steven Levitsky – Lucan A. Way: *Competitive Authoritarianism: Hybrid Regimes After the Cold War*. Cambridge University Press, 2010.

Bernard Lewis: *Race and Slavery in the Middle East: An Historical Enquiry*. Oxford University Press, 1990.

John Locke: *Two Treatises of Government*. P. Laslett, Ed., Sec. 202. Cambridge University Press, 1988.

Jingxuan Mao – Amjad A. Gady: The Legitimacy of Military Intervention in Yemen and Its Impacts. *Beijing Law Review*, 2021 (12), 560–592.

Carlos A. Martinez-Vela: World Systems Theory. *ESD*. 2001 (83).

John Odah: The Impact of Structural Adjustment Programmes on West Africa: The Die is Cast! *International Union Rights*, 2017 (1), 22–23.

Carmen E. Pavel: The international rule of law. *Critical Review of International Social and Political Philosophy*, 2019 (3), 332–351.

Raúl Prebisch: The Economic Development of Latin America and Its Principal Problems. *ECLAC*, 1950.

Joseph Raz: The Rule of Law and Its Virtue. In: *The authority of law: Essays on law and morality*. Oxford University Press, 1979, 210–229.

Walter Rodney: *How Europe Underdeveloped Africa*. Bogle-L'Ouverture Publications, 1972.

Samuel Rutherford: *Lex, Rex, or The law and the prince: A dispute for the just prerogative of king and people.* Robert Ogle and Oliver & Boyd, 1843.

Tom Ruys – Lars Ferro: Weathering the Storm: Legality and Legal Implications of the Saudi-Led Military Intervention in Yemen. *The International and Comparative Law Quarterly*, 2016 (1), 61–98.

Ronald Sale: Saddam–CIA Links (1959–1990). *Peace Research*, 2003 (1), 17–20.

Michael N. Schmitt: The Legality of Operation Iraqi Freedom Under International Law. *Journal of Military Ethics*, 2004 (2), 82–104.

Susan K. Sell: TRIPS-Plus Free Trade Agreements and Access to Medicines. *Liverpool Law Review*, 2007 (1), 41–75.

Kenneth C. Shadlen: Exchanging Development for Market Access? *Review of International Political Economy*, 2005 (5), 750–775.

Joseph E. Stiglitz: *Globalization and Its Discontents*. W. W. Norton & Company, 2002.

The Qur'an (M.A.S. Abdel Haleem, trans.). Oxford University Press, 2008.

Themistoklis Tzimas: Legal Evaluation of the Saudi-Led Intervention in Yemen. *ZaöRV*, 2018 (78), 147–187.

Robert. H. Wade: What Strategies are Viable for Developing Countries Today? The World Trade Organization and the Shrinking of 'Development Space.' *Review of International Political Economy*, 2003 (4), 621–644.

Jeremy Waldron: The Rule of International Law. *Harvard Journal of Law & Public Policy*, 2006 (1).

Jeremy Waldron: *The rule of law and the measure of property*. Cambridge University Press, 2012.

Immanuel Wallerstein: The Creation of a Geoculture: Ideologies, Social Movements, Social Science. In: *World-Systems Analysis: An Introduction*. Duke University Press, 2004, 60–75.

Immanuel Wallerstein: *World-System Analysis: An Introduction*. Duke University Press, 2004.

Arthur Watts: The International Rule of Law. *German Yearbook of International Law 36*, 1993.

BBC News: *Iraq War Illegal, Says Annan.* 2004, September 16. http://news.bbc.co.uk/2/hi/middle_east/3661134.stm.

Iraq Inquiry: *The Report of the Iraq Inquiry: Executive Summary.* HMSO, 2016, 6, 47, 62–63. https://www.gov.uk/government/publications/the-report-of-the-iraq-inquiry.

Reuters: *Polish PM Chides Europe over Libya "Hypocrisy"*. Apr. 9, 2011. https://www.reuters.com/article/world/africa/polish-pm-chides-europe-over-libya-hypocrisy-idUSLDE73806T/.

UN News: *Iraq War Was Illegal and Breached UN Charter, Says Annan*. Sep. 16, 2004. https://news.un.org/en/story/2004/09/115352.

United Nations Security Council: *Resolution 1441 (2002) [on the situation between Iraq and Kuwait]* (S/RES/1441). 2002, November 8. https://www.un.org/depts/unmovic/documents/1441.pdf.

United Nations: *Charter of the United Nations, Article 51*, 1945. https://www.un.org/en/about-us/un-charter/full-text.

United Nations: The rule of law and transitional justice in conflict and post-conflict societies (Report of the Secretary-General, UN Doc. S/2004/616,4). United Nations, 2004, August 23. http://archive.ipu.org/splz-e/unga07/law.pdf.

United Nations: Vienna Convention on the Law of Treaties, Art. 34. United Nations Treaty Series. Vol. 1155, 1969, 331. Retrieved from https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf.