

THE PRINCIPLES OF INTERNATIONAL LAW - Lawrence

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"It regards International Law, not as an instrument for the discovery and interpretation of a transcendental rule of right binding upon states as moral beings whether they observe it or not in practice, but as a science the chief business of which is to find out by observation the rules actually followed by states in their mutual intercourse, and to classify and arrange these rules by referring them to certain fundamental principles on which they are based."

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"As to the first question, there are many rules of international conduct which the general opinion of civilized mankind approves. They are enforced partly by a conscientious conviction that they are good and right, partly by those subtle influences which make it difficult for a man or a body of men to act in defiance of the strongly held views of those with whom they habitually associate, partly by a fear lest disregard of them should in the long run bring evil on the recalcitrant. These rules, though like other rules they are sometimes evaded and sometimes defied, do, nevertheless, receive general obedience; they are no more reduced to a nullity by being sometimes broken than are the laws of the land because some habitual criminal disregards them with impunity every day. We may therefore term them laws, unless we follow Austin in his developments of that analysis of sovereignty which may be traced back at least as far as Jean Bodin, the great French political thinker of the sixteenth century, and even further still to mediaeval canonists anxious for the aggrandizement of papal power. If no one is lawgiver who cannot bring a definite and foreordained evil to bear on the disobedient, and nothing is law which does not rest in the last resort on superior force, then indeed it is impossible to discover in the social code of civilized states many precepts which we can dignify by that exalted title. But if we are content with the definition of Richard Hooker, the great Elizabethan divine, who spoke of law as 'any kind of rule or canon whereby actions are framed,' we may apply the term to those regulations concerning international conduct which meet with general acceptance among civilized communities. Here and there we find divergent views embodied in conflicting proposals. Moreover, when new cases arise, as they must in a society which is living and growing, the manufacture of legal clothing to fit them takes a considerable time and gives rise to much discussion. But the rules, for the most part, are clear and definite; and habitual obedience is secured for them, though by moral more often than by material force. A reasonable uniformity of conduct is thus produced among those to whom the rules are set, that is to say, the organized governments of the civilized portion of the human race."

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"Statesmen uphold a cause for which they are contending by reference to acknowledged rules deduced from general practice. If there are no precedents exactly applicable to the matter in hand, they endeavor to show that admitted principles, logically developed, lead to the conclusions they wish to establish. Very seldom do we find nothing but appeals to natural right, or innate principles of justice and humanity. Sometimes such references are used to clinch an argument otherwise well driven home, but more often they bolster up a case for which little support can be found elsewhere. Their presence alone in a state paper is a pretty sure sign that International Law is hopelessly against the contentions of its authors. It is safe to assert that whenever it is possible diplomatists base their arguments on usage, and, if usage is doubtful, on principles which have been adopted by great groups of civilized powers."