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**THE RELATIONSHIP BETWEEN INTERNATIONAL LAW  
AND MORALITY: THEORETICAL FOUNDATIONS  
AND PRACTICAL IMPLICATIONS**

**СПІВВІДНОШЕННЯ МІЖНАРОДНОГО ПРАВА ТА МОРАЛІ:  
ТЕОРЕТИЧНІ ЗАСАДИ ТА ПРАКТИЧНІ НАСЛІДКИ**

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International law has long occupied a vague space between law, morality, and politics. It governs relations among states and other international actors through treaties, customary international law, and general legal principles. However, unlike domestic legal systems, international law lacks a central enforcement authority, which raises ongoing questions about its legitimacy. Do states follow international law because it is legally binding, because it aligns with a moral responsibility of their leaders, or simply because it benefits their national interests? If moral considerations influence compliance, are state leaders and government officials required to obey all rules of international law or only those they deem just and fair?

Law and morality are separate but closely linked concepts that influence decision-making and behavior in modern international relations. Today's global issues often involve significant moral concerns. Addressing these challenges requires a careful balance between legal standards and moral values. Law and morality should work together. Legal norms can help shape and support moral principles, thereby strengthening and safeguarding

society's moral foundations. The authority of law is much stronger when it is based not only on power but also on widely accepted moral principles.

Hetmanchuk M. and Kornat L. argue that international morality and international law differ in scope. Moral norms tend to be universal, while law functions within a more limited framework at any given time. At the same time, international relations are often shaped by both legal and moral standards. Every participant in international relations faces a difficult dilemma: whether to act in accordance with widely accepted principles of international morality and law, or to prioritize their own national interests [1, p. 236].

Contemporary research on the relationship between morality and international law includes a variety of concepts and theories. These are generally grouped into three main approaches. The first approach argues that fundamental moral norms are the primary basis of international law (the natural law approach). The second approach dismisses universal moral values as the foundation of international law (positivism and realism). The third approach examines the interaction between moral and legal norms in different forms (hybrid concepts) [2, p. 183–184].

#### 1. Natural Law: Morality as the Foundation of International Law.

The roots of international law are based in natural law theory. Thinkers like Hugo Grotius, often called the “father of international law,” argued that the law of nations (*jus gentium*) derives from natural law, which is grounded in human reason, social nature, and the need for peaceful coexistence. According to this perspective, moral obligation precedes legal consent. States are not only bound by international treaties because they agree to them but also because certain principles, such as peace, good faith, and human dignity, are universally binding. This tradition still influences modern doctrines like *jus cogens*, which prohibit genocide, torture, and slavery regardless of state consent or national laws.

However, a major challenge of this approach is that morality is often unclear and highly debated, especially across different states and cultures. As a result, it may offer limited practical guidance for international relations [3, p. 203]. Additionally, if international law regards individuals or non-state groups as the main moral agents, it might claim their loyalty but risks weakening its traditional role in regulating relations between states [3, pp. 188–189].

Scholars who believe that states have a moral duty to comply with international law tend to be more optimistic about its ability to resolve global problems, which can be solved by international treaties and institutions only if states adopted clearer and stronger treaty obligations, delegated more sovereign powers to independent international institutions, ensured

transparent and fair negotiation procedures, and favored multilateralism over unilateral or bilateral approaches [3, p. 195].

## **2. Positivism and Realism: The Separation of Law and Morality**

In contrast, legal positivism and political realism reject the idea that morality underpins international law. For positivists, law comes from state consent and recognized legal sources rather than from ethical principles. Realists go further, arguing that international law mainly reflects power relations and the strategic interests of states.

International law norms differ from moral norms. They are usually more precise and apply where moral principles might be unclear or absent. These norms reflect institutional limits, similar to domestic laws. However, international legal norms are distinguished from simple agreements, customs, or political deals by their specific normative nature and moral importance [3, p. 201].

This perspective is closely linked to the Vienna Convention on the Law of Treaties (VCLT), adopted in 1969 and effective since 1980. The Convention functions as a “treaty on treaties,” setting the rules for inter-state agreements. It is based on the principle of *pacta sunt servanda* (“agreements must be kept”) and the concept of free consent. However, several key countries, including the United States (a signatory but not a party), India, South Africa, France, and Norway, are not parties to the Convention, indicating it is not universally binding.

The principle of *pacta sunt servanda* and the logic of the Vienna Convention rely on the assumption that states intend to follow international law. However, they do not offer clear ways to ensure compliance. The prudential perspective suggests that making international law more rigid could actually lead to more noncompliance. If treaty obligations become too burdensome, complying might become more costly, prompting states either to breach international law more frequently or to avoid entering into agreements altogether [3, p. 203].

Goldsmith and Posner also argue that even if we accept that international law can formally bind states, we still need to explain why individuals and governments should feel morally obliged to ensure their state complies with its legal obligations [3, p. 189]. These arguments support O. Mezhko's conclusion, who maintains that the main factor leading to compliance with international law is a relatively high level of legal, or more specifically, international legal, awareness. This awareness is based on moral principles and is especially important for those representing states in the international arena and authorized to make major foreign policy decisions [4, p. 93].

### **3. International Law Between Power and Morality: The Limits of Legal Obligation**

Many experts in international relations question why, despite the prohibition on the use of force enshrined in the UN Charter, states still resort to force when resolving international disputes. Legal scholars often explain this issue by pointing to the outdated nature of the norms that govern the use of force. In contrast, non-experts tend to accuse international law of applying “double standards,” allowing powerful states to act with impunity while weaker and poorer states are held accountable for similar actions. Thus, while specialists emphasize technical and structural weaknesses in the legal framework, non-specialists highlight the moral dimension, particularly the lack of moral responsibility among major powers, which remains significant. A clear example of this behavior is Russia’s policy since the start of the 21st century, including its military aggression against the sovereign states of Georgia and Ukraine. The ongoing war in Ukraine shows that many basic rules of international law have been broken. At the same time, the global community faces tough challenges in holding Russia and its officials accountable for these violations.

Therefore, international law only functions if states are willing and able to enforce it. If no state intends to use legal mechanisms or lacks enough political power to do so, the law may not be effective. For example, while preparing for armed aggression against Ukraine and trying to avoid future international sanctions, Russia in 2019 withdrew the declaration made by the USSR when ratifying Additional Protocol I to the Geneva Conventions of August 12, 1949, concerning the Protection of Victims of International Armed Conflicts (1977), under Article 90(2) of that Protocol. This action reduced the authority of the International Fact-Finding Commission, thereby weakening accountability mechanisms.

A notably controversial element of international law is Article 15 bis of the Rome Statute of the International Criminal Court (ICC). The ICC is currently reviewing the situation in Ukraine, and the Prosecutor has stated that war crimes and crimes against humanity fall within the Court’s jurisdiction based on Ukraine’s declarations accepting ICC jurisdiction. However, the crime of aggression, which Russia undoubtedly committed in Ukraine, does not seem to fall under the Court’s jurisdiction due to restrictions in Article 15 bis of the Rome Statute. According to this provision, the Court can exercise jurisdiction over the crime of aggression only if the responsible state is a party to the Rome Statute and has ratified the relevant amendments. This means that, for the ICC to prosecute the crime of aggression, the aggressor nation, such as Russia, must ratify the Rome Statute and accept the Court’s jurisdiction over that crime. Until that happens, the ICC does not have jurisdiction over aggression in this case.

In practical terms, holding someone accountable for the crime of aggression would require significant political change within the aggressor state, while compliance with these rules involves recognizing the crime. Article 15 bis, therefore, highlights a broader structural issue: international law often functions as a system shaped by global political realities and the interests of powerful states, rather than by moral norms or ideas of justice and peaceful coexistence. It governs relations between sovereign states, but its effectiveness and scope are often limited by political consent and power dynamics. This tension between legal norms, political influence, and moral considerations remains a key challenge in developing international law.

The relationship between international law and moral obligation remains complex and highly debated. Modern approaches emphasize the importance of legitimacy and international legal awareness, while scholars increasingly highlight the connection between international law and morality in addressing global issues. Today, international law functions as a mixed normative system: it is mostly officially binding, but its practical influence relies less on written rules or institutional authority and more on political leverage and the interests of powerful states. Its future development requires not only clearer norms with effective enforcement but also enhanced moral credibility, the elimination of double standards, and the promotion of a universal legal consciousness. In an era marked by new forms of conflict and ongoing global crises and wars, balancing state sovereignty with shared moral responsibility remains a key challenge for international law.

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