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Why have international law?

Introduction:

When called to consider the necessity of international law as a system, attention ought to be given to what it seeks to achieve and how it operates in practice. International law remains primarily a system governing the relationships between states. To this end, the discussion focuses solely on the reasons for having international law with regard to states. Whilst international law is based on an assumption of sovereign equality, this may not be upheld in the face of material inequalities between states. International law seeks to promote common objectives, but these can be called into question by competing state interpretations. States mostly comply with international law. Yet, rare violations of international law may overshadow widespread state compliance. International law seeks to encourage states to pursue the peaceful settlement of disputes. A lack of enforcement may nonetheless undermine this objective. Each of these issues will be evaluated in turn, drawing on Sikh jurisprudence to inform the analysis.

Sovereign Equality:

Firstly, international law aims to guarantee the sovereign equality of all states. This aim is set out at article 2(1) of the United Nations Charter. This article provides that the United Nations 'is based on the principle of the sovereign equality of all its Members'[1]. M. Shaw explains that sovereign equality means that states 'irrespective of size or power, have the same juridical capacities and functions, and are likewise entitled to one vote in the UN General Assembly'[2]. A similar conception of equality is reflected in key Sikh teachings. The Guru Granth Sahib Ji teaches Sikhs to 'not consider social class or status' and declares that 'there are no classes or castes in the world hereafter' (Ang 349)[3]. In both cases, whether that be in international law

[1] Art 2(1) of the Charter of the United Nations (entered into force 24 October 1945).
[2] M Shaw, *International Law* (10th edn, Cambridge University Press 2026) 209.
[3] *Guru Granth Sahib Ji*, Ang 349.

or Sikhism, an assumption is made. Whilst disparities will inevitably exist between states, as they do between Sikhs, these differences are set aside, in favour of a principle of equality in status.

G. Simpson challenges this core aim of international law. He advances that '[t]he conventional image of international law as a system in which states are at least equal *in law* [...] is incomplete'[4]. For G. Simpson, states are 'unequal sovereigns'[5] under international law. He argues that in international relations there are two categories of states: Great Powers and outlaw states. According to G. Simpson, the former group of states has influence over the latter due to power imbalances. This means that in reality a hierarchy exists between states, limiting the principle of sovereign equality. On the one hand, this hierarchy means that Great Powers are able to project 'force in ways that would be unlawful for other states in the system'[6] and benefit from an influence in international law-making. On the other hand, outlaw states may be 'denied the basic protections of sovereignty'[7]. Thus, the assumption of sovereign equality may be easily set aside in practice.

International law attempts to recognise that all sovereign states should be treated as equal. This attempt is made by disregarding realities, like the economic, geographical size and military force of states, to enable the creation of a legal fiction. Likewise, the rejection of the caste system in Sikhism seeks equality but does not mean that social disparities between Sikhs disappear. Nonetheless, the assumption in international law and the rejection of the caste system help to ensure that differences in power or social status, do not determine the fundamental status accorded to states or individuals. In turn, this should help to prevent certain states from holding a position of dominance over others.

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[4] G Simpson, *Great powers and outlaw states: unequal sovereigns in the international legal order* (1 st edn, Cambridge University Press 2004) 6.
[5] Ibid.
[6] G Simpson, *Great powers and outlaw states: unequal sovereigns in the international legal order* (1 st edn, Cambridge University Press 2004) 62
[7] Ibid.

The assumption of sovereign equality does not seem to fully overcome the material inequalities between states. Rather than relying solely on a legal assumption of equality, it may be better to directly address the material inequalities that exist between states. This would help to move influence away from the Great Powers. This would help to dismantle the hierarchical relationship that exists between states in reality. This does not mean that the assumption of equality has failed overall. It rather sets a goal for what international law should be: a system where truly equal sovereign states co-exist.

Common Objectives:

Secondly, international law advances the shared purposes of peace, justice, international co-operation and respect for human rights globally. Article 1 of the United Nations Charter sets out these purposes. It provides that the United Nations aims to 'maintain international peace and security', settle international disputes 'in conformity with the principles of justice' and 'achieve international co-operation [...] in promoting and encouraging respect for human rights'[8]. B. Alexander-Richardson and H. Kohli explain that, according to the Sikh principle of *sarbat da bhala*, meaning 'seeking the welfare of all', Sikhs should 'act for the common good, not just their own faith community'[9]. Accordingly, *sarbat da bhala* requires Sikhs to pursue the welfare of society as a whole. The principle of *sarbat da bhala* can help to inform how the purposes of international law can be achieved. Peace, justice, co-operation and respect for human rights are interests for all states to work towards collectively for the benefit of all.

Yet, the main purposes of international law may not be understood in the same way by each state. M. Koskenniemi illustrates that when considering the purposes of international law, one is confronted with a paradox. On the one hand, he recognises that these purposes 'seem self-

[8] Art. 1 of the Charter of the United Nations (entered into force 24 October 1945).
[9] B Alexander-Richardson and H Kohli, 'Social Justice in Sikhism and Christianity: Then and Now' (2026) 17 Religions 54.

evident' and that they 'have never been seriously challenged'[10]. On the other hand, he argues that they 'exist at such a high level of abstraction that they fail to indicate concrete preferences for action'[11]. States may agree on the broad purposes that international law serves overall. Nonetheless, each state may attribute a different meaning to peace, justice, international co-operation and respect for human rights. If each state pursues the purposes of international law according to their own definitions, then disagreement may arise over what these purposes seek to accomplish.

It is clear that international law exists to provide a framework through which states can promote and achieve a set of common purposes. While these purposes are well established, the question remains whether international law can effectively attain them. The abstract purposes of international law may allow for different understandings of its objectives to emerge, according to each state's own circumstances and interests. In turn, states may be aiming to achieve different objectives. However, this does not mean that international law's objectives are unattainable or undermined.

The principle of *sarbat da bhala* acknowledges the coexistence of Sikh interests alongside the pursuit of the common good. Sikhs do not have to disregard their own interests or interpretations. Their actions must instead be guided by the common good and not by their own interests and interpretations alone. The principle of *sarbat da bhala* provides a useful basis for considering how, despite competing state understandings of peace, justice, international co-operation and respect for human rights, international law can remain effective in pursuing these common objectives. However, the extent to which international law can fully achieve its objectives, depends upon states being willing to pursue their national interests in a manner that remains compatible with the welfare of the international community as a whole.

[10] M Koskenniemi, *The Politics of International Law* (unknown, Hart Publishing 2011) 242.
[11] Ibid.

State Compliance:

Thirdly, international law establishes rules, obligations and norms that states generally comply with. They do so even in the absence of a centralised enforcement authority. L. Henkin observes that 'almost all nations observe almost all principles of international law and almost all of their obligations almost all of the time'[12]. In the Lotus case, the Permanent Court of International Justice held that '[t]he rules of law binding upon States therefore emanate from their own free will'[13]. This provides a basis for understanding why states generally do not violate their international law obligations. J. Klabbers explains that 'since states themselves make international law they have little incentive to break it'[14]. In other words, states voluntarily create international legal rules, meaning that they are more likely to comply with these rules. For the most part, the voluntary character of international law means that coercive force is not necessary, to ensure that states respect it.

In contrast, the lack of centralised enforcement means that violations of international law can still occur. Although he acknowledges high levels of state compliance, L. Henkin nevertheless outlines that '[v]iolations of international law, though infrequent, may have significance beyond their numbers'[15]. He sets out that 'states have power to commit violations that can be seriously disruptive'. He explains further that there are relatively few states and that this increases 'the relative significance of each violation'. Similarly, Guru Gobind Singh Ji's *Ẓafar-nāmah* demonstrates how obligations undertaken voluntarily, are not necessarily respected. R. Rinehart explains that the Guru 'chastises the emperor for reneging on a sworn oath to give

[12] L Henkin, *How Nations Behave: Law and Foreign Policy* (2nd edn, Columbia University Press 1979) 47 (as cited in O Hathaway 'Do Human Rights Treaties Make a Difference?' (2002) 111 The Yale Law Journal 1935, 1937).
[13] *The S.S. Lotus (France v Turkey)* (Judgment) [1927] PCIJ 44.
[14] J Klabbers, *International Law* (4th edn, Cambridge University Press 2024) 11.
[15] L Henkin, *How Nations Behave: Law and Foreign Policy* (2nd edn, Columbia University Press 1979) (as cited in International Committee of the Red Cross, 'Fundamentals of IHL' (icrc.org, unknown) <https://casebook.icrc.org/law/fundamentals-ihl> accessed 31 August 2026.

the Guru and his family safe passage from Anandpur. Instead they were attacked'[16]. According to C. Shackle and A. Singh Mandair's translation of the *Ẓafar-nāmah*, the Guru writes that 'false promises cause only harm'[17]. In this case, the promissory obligation was made by the Mughal emperor without the Guru having any effective means of ensuring compliance. This obligation was ultimately not respected.

On the basis of state compliance, determining whether international law is justified is less clear-cut. It has been established that the absence of an international enforcement authority has not discouraged widespread state compliance with international law. It has equally been established that violations of international law are the exception. The challenge arises when weighing up the benefits of this widespread compliance, against the drawbacks of violations that challenge the main purposes of international law. Whilst few in number, these violations can have consequences that potentially undermine the value of widespread compliance with international law.

Guru Gobind Singh Ji's *Ẓafar-nāmah* may help to inform the debate. As this letter shows, non-compliance with obligations can lead to serious harm. The Emperor's own non-compliance, with his promise, affirms that the voluntary character of an obligation alone is sometimes not enough to fill the gap left by a lack of coercive force. Hence, the consequences of non-compliance with international law cannot be ignored. Nevertheless, it may be more beneficial to consider how the gap left by the absence of coercive force can be addressed to prevent the relatively few violations that occur. Overall, whilst state compliance cannot always be guaranteed without coercive force, the widespread respect for international law demonstrates its necessity as a framework for regulating relations between states.

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[16] R Rinehart, *Debating the Dasam Granth* (online edn, Oxford University Press 2011).
[17] C Shackle and A Singh Mandair, *Teachings of the Sikh Gurus Selections from the Sikh Scriptures* (1st edn, Routledge 2005) 142.

Dispute resolution:

Finally, international law provides mechanisms for the peaceful settlement of disputes that arise, notably from breaches of international obligations. Article 2(3) of the United Nations Charter provides that states 'shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered'[18]. Article 33(1) sets out a non-exhaustive list of adjudicative and non-adjudicative dispute settlement mechanisms[19]. States are free to choose from these mechanisms. K. Tuffuor, S. Korantema and E. Yin clarify that the United Nations Charter 'obliges member states to prioritize peaceful means'[20]. The authors equally set out that it is thanks to international law that peaceful dispute resolution mechanisms exist. Sikhism goes further when obligations are breached. It places voluntary acceptance of wrongdoing at the centre of resolving breaches. Article XXV(a) of the Rehat Maryada, the Sikh code of conduct, provides that, in a case of 'default in the Sikh discipline', a Sikh should 'approach the nearby Sikh congregation and make a confession of his lapse'[21].

Differently, A. Pellet argues that, although the obligation to settle international disputes through peaceful means undoubtedly exists, the principle remains 'weak and imperfect'[22] in terms of its enforceability. He highlights that international law 'does not offer any means for making this binding obligation enforceable'[23]. A. Pellet illustrates that the United Nations Charter does not remedy this deficiency. In accordance with the Charter, states cannot generally be compelled to resort to a particular method of dispute settlement, 'nor to implement any agreed or decided solution, except if the absence of settlement threatens the maintenance of [...] international

[18] Art. 2(3) of the Charter of the United Nations (entered into force 24 October 1945).
[19] Art. 33(1) of the Charter of the United Nations (entered into force 24 October 1945).
[20] K Tuffuor, S Korantema and E Yin, 'International Law and the Peaceful Settlement of Disputes' (2024) 4 UCC Law Journal 42, 29.
[21] Art. XXV(a) Sikh Rehat Maryada.
[22] A Pellet, 'Peaceful Settlement of International Disputes' (2013) Max Plank Encyclopaedia of Public International Law.
[23] Ibid.

peace and security'[24]. In such circumstances, Chapter VII of the Charter may apply[25]. Where states fail to comply with judgments of the International Court of Justice, the Security Council 'may' act to enforce compliance under Article 94(2) of the Charter but is not obliged to do so[26]. It is worth noting that the enforcement problem does not exist in relation to individuals. A. Huneeus observes that international criminal courts possess stronger mechanisms for securing compliance with their orders, as they 'can hold individuals in contempt, and can even have them detained'[27].

Inarguably, international law has established mechanisms for the peaceful resolution of disputes. These mechanisms aim to prevent states from resorting to the use of force to settle their disputes. The obligation to seek peaceful dispute resolution is enhanced by giving states the freedom to choose the mechanism, which is most appropriate to their dispute. Nevertheless, international law as the basis for peaceful dispute settlement between states is challenged by the lack of consistent enforcement across the available mechanisms. This reflects the wider difficulty of securing compliance with international obligations, as previously discussed. Even where states submit their dispute to the International Court of Justice, which provides a highly formalised judicial procedure, there remains no absolute guarantee that its final judgment will be enforced.

Whilst it is unlikely that a state would voluntarily concede that it is in breach of an obligation, as is expected of Sikhs, the *Rehat Maryada* provides a useful contrast. Its approach to breaches of obligations supports the case for a system, in which states are given agency in the settlement of their disputes. Indeed, this agency may not lead to full enforcement but states are more likely to comply with outcomes or decisions, which are a result of mechanisms they

[24] Ibid.
[25] A Pellet, 'Peaceful Settlement of International Disputes' (2013) Max Planck Encyclopedia of Public International Law.
[26] Art. 94(2) of the Charter of the United Nations (entered into force 22 October 1945).
[27] A Huneeus, 'Compliance with Judgments and Decisions' (2014) The Oxford Handbook of International Law 437.

consented to. This demonstrates precisely why international law is necessary. Even where its mechanisms cannot guarantee compliance, they provide an alternative framework through which disputes can be addressed without resorting to force.

Conclusion:

In summary, despite some of its shortcomings, international law remains necessary for regulating relations between states. The assumption of sovereign equality sets a goal for an international community in which each state is equal to every other state. Even if this objective is yet to be fully achieved, it can still guide the international community as international law develops further. The main purposes of international law are sufficiently universal to remain broadly unchallenged. States may attribute different meanings to each of these purposes, but this does not necessarily undermine their value as shared objectives. International law is further justified by the fact that states regularly respect it. This does not offset the violations that do occur, particularly where the consequences are significant. Nevertheless, widespread compliance still demonstrates that international law effectively regulates state behaviour without centralised enforcement. Finally, the development of peaceful dispute resolution mechanisms further legitimises international law, even where their enforcement cannot be guaranteed. This is because international law encourages states to pursue peaceful mechanisms for resolving disputes rather than allowing relations between states to be governed by force.

Word count: 2,500

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