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## International Law and International Relations (The Position of International Security Regimes from an Institutional Perspective in the Approach)

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### Abstract

*The international legal system is a complex set of norms, customs, and legal regimes that regulate the interaction and mutual action of its components and bring them into a coherent framework. While we are faced with a general system of international law, it is possible for several subsystems to exist within this systematic framework.*

*The present article seeks to answer the question of what is the position of international security regimes in the international legal system. The aim of the present study is also to explain the institutional position of international security regimes in the legal system governing the international legal system.*

*In this research, using the institutionalist approach in the field of "International Law and International Relations" and through the systematic analysis of international law, the structure of the international legal system is defined and the types of interaction of players in this system are described.*

*Based on this research, it is concluded that international institutions provide an opportunity for states that have not achieved the desired results in strategic interactions to improve their results by creating a new balance.*

*In order for such a balance to be stable, the institution must create common expectations of behavior. Such expectations can only be supported and guaranteed through a theory of regimes that acts as a bridge between international law and international relations.*

**Keywords:** International Security Regimes; Institutionalism; International Law And International Relations

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## Introduction

The behavior of states as the main players in international relations has also been horizontal and it cannot be said that there is a vertical structure in the international system. In such a system, each state will act in accordance with its own interests and preferences.

The existence of a new international legal system is an absolute necessity for the future. State sovereignty in its most basic sense must be redefined with the effects of globalization and international cooperation. International regimes can be seen as a bridge between the sovereignty of states. International regimes can be the connecting link of the state legal system, including primary and secondary rules.

The inefficiency of this legal system has been demonstrated by positivist approaches in cases where the interests of one of the permanent powers of the UN Security Council have been at stake. The stability and change of the international system form the core of the theory of international regimes. Many definitions of international regimes have been proposed. In this article, we adopt the definition of (Kersner, 1983:1) which has become the standard definition in academic circles, as the definition of the norm. Accordingly, international regimes are a set of principles, explicit or implicit rules, norms, and decision-making procedures through which the expectations of actors on specific issues are met and the demands of the actors are met.

According to Dr. Asgarkhani (2004), international regimes are created without the consent of the powerful, but over time they have become self-created and are also presented alongside states as players. Secondly, as mechanisms of cooperation between states, they create trust and security and contribute to the stability of the international system. Third, regimes change through various factors, the most important of which is power. Accordingly, regimes are also defined in terms of theories of "cooperation, order, and stability" in relation to theories of "change."

An awareness of how, why, and the circumstances in which theories of international relations are constructed and addressed helps to understand the nature, subject matter, and goals of those theories. Regarding international regimes, theorists have given some explanation, but given the linking role of regimes between international law and relations, what has always been absent is an explanation of the legal position of regimes in the international legal system in order to ensure the effectiveness of these regimes in managing international crises.

Given the shaky and tasteless approach of international institutions such as the United Nations Security Council in maintaining international peace and security, the concern of this study is to establish world peace and security, which, in order to achieve this, has taken into account both the interests of individual states and the principle of "self-reliance" and the interests of the international community as a whole.

To this end, explaining and justifying the position and role of international security regimes in the system of international law obligations can, through the coordination of interests and the creation of transparency, contribute to greater trust in international relations and guarantee lasting peace and security.

This article seeks to answer the question: What is the position of international security regimes in the system of international law? Accordingly, the aim of this study is to explain the institutional position of international security regimes in the legal system

governing the international legal system with the aim of creating lasting peace and security in the international system. Accordingly, it is assumed that international regimes, after their creation, play a role as a legal regime under the international legal system and contribute to the stability of this parent system.

This article was conducted using a descriptive-analytical research method based on library studies, so that the results of this research can be used in the practical aspect to increase the awareness of decision-makers and planners in the fields of politics and law, both in government and education.

Without sufficient knowledge of the legal and security paradigms of the international system and the new models of international law, it is not possible to train effective forces in the fields of diplomacy and security as needed, and as a result, the interests of the country will not be secured. In order to be aware of this situation, such descriptive research is necessary.

This guide will first define international security regimes and then explain the institutional approach to "international law and relations." Then, by analyzing the system of international law, international regimes will be examined in the form of two discourses: Grotius and modified structuralism, and finally, the legal and functional explanation of international security regimes in the legal system governing the international legal system will be addressed.

The importance and innovation of the present article is that, to date, interdisciplinary research that uses the institutionalist approach to the treatment of international law and international relations to explain the position of international regimes in the international legal system has not existed in the Iranian international law literature, and the background to such research can only be found in works that have dealt with the systemic approach to international law or those that rely on realist theories of international relations. They have searched.

In an article titled "The Interdisciplinary Paradigm of International Law: A Systematic Study of International Relations," Azadbakht discusses the different aspects of international law from other human sciences and knowledge (including both theoretical and analytical), and explains the distinctions that, in the Aristotelian interpretation, are considered the chapters of the legal system, and in modern language, the four-fold elements that form the organic unity of the legal system.

In this unfinished journey, he has left the epistemological existential critique of legal narratives that correspond to the original social data, representing and unraveling these long-standing epistemological stories to legal methodology. (Azad Bakht, 2010:168) In this article, he refers to the heterogeneity of the international community and the conflicting desires and wills focused on power, which prevent the coherence of the legal system. In fact, he describes the facts and offers a proposal to solve this problem and the link between the international legal system and the wills focused on power of states in the global arena. Mukhtari in his book entitled "Systems Thinking: Principles, Tools and Methods" (Mukhtari, 2016) has studied the characteristics of systems and made an applied and qualitative comparison between them in terms of their order of existence. In this book, he did not examine legal systems and international relations, but rather provided a general view of the nature of systems.

Firozabadian and his colleagues (2015:94-70) in an article entitled "The Impact of Realist Theories of International Relations on the

Development of International Law” from the perspective of Realism in international relations has looked at international law and in this study has assumed the existence of anarchy instead of order and power instead of law.

In this study, power has been discussed as a tool in the service of international law and, from a historical perspective, the role of power and the theory of "hegemonic stability" in the advancement of international law has been addressed. In this study, an intra-systemic view of international law and the system governing it has not been. On the other hand, no answer or suggestion has been provided in the paper regarding the conflict between the interests of the great powers and the international community as a whole. Among the weaknesses of studies that focus solely on a realist approach to international relations or a positivist philosophy in international law is their lack of responsiveness to explaining the position and role of international institutions in the international system and the creation of weak discourses for prediction or management. International security crises have been pointed out; this will lead to distrust and instability in the international system.

Also, due to the prevalence of the positivist approach in international law, especially in the Legal society of developing countries, this article, by introducing, recognizing, and benefiting from other approaches, can provide a broader perspective on international legal developments for students and researchers in this field.

## Conceptual and Core Framework

### International Security Regimes

Regimes appear in their most complex form as institutions and in their simplest form as limited agreements between two or more states. Regimes can therefore be divided into regimes based on formal multilateral arrangements (non-institutionalized) and simple regimes (consensual); They can be institutional, such as the North Atlantic Treaty Organization (NATO), or agreements based on formal arrangements, such as the Salt Treaty (Abdallah Khani, 2019: 416).

The role of regimes varies from cooperation to coordination. Some argue that regimes allow states to overcome obstacles to cooperation. Obstacles that the chaotic structure of the international system has created; while others argue that On the other hand, states use their power and authority in situations that require coordination to create appropriate regimes (Little, 2004: 677). According to Rozna (2005), today's world politics has left behind conventional and traditional borders, and past lessons and classical theories no longer explain the course of current events. He believes that given the rapid pace of change, the concept of international politics cannot and should not be used; because in The apparent trend is that the dynamic interactions of world politics that occur without the direct intervention of nations and states have increased significantly. It is therefore necessary to use a new structure that both reflects the existence of new structures and leaves room for further structural changes.

Regarding security issues, there is little literature, and the reason for this can be explained by "high competitiveness compared to other areas, higher costs of error, similarity of goals offensive and defensive and high uncertainty due to its adherence to the intentions of the players.

This area is related to the existence and survival of countries, but despite the situation that makes the creation of security regimes difficult, states take steps to form security regimes; because states

believe that individual decision-making and behavioral patterns are not only costly, but also dangerous.

Security regimes are formed when A group of countries cooperate to resolve disputes and prevent war, to alleviate security concerns arising from their actions and assumptions about the behavior of others. Although security regimes are a twentieth-century phenomenon, they can also trace their origins to earlier models. For example, the Concert of Europe was a regime that conservative European states established after the Napoleonic Wars to counter revolution and conflict. The future, they had created. At the same time, on the other side of the Atlantic, the British and Americans created the Rush-Baghdad Agreement in 1817 to demilitarize the Great Lakes (Crimey Keshe, *ibid.* (65).

Not a day goes by that a new rule or custom does not take shape. Regimes such as the N.P.T., the C.T.B.T., the M.T.C.T.R., are among them. However, there are ongoing efforts to create regimes Security standards only expanded in the twentieth century, especially with the onset of the Cold War; including SALT I (1972) and SALT II (1979) to control the arms race between the United States and the Soviet Union, the Limited Test Ban Treaty (1963) to prohibit nuclear tests in the atmosphere, and the Nuclear Non-Proliferation Treaty (1968).

### Security Regime-Based System

If the main model of regional security management is based on security regimes, the security regime will appear as an independent variable with a cooperative role, but if the security regime is within the framework of another main model, it can also appear as an intermediate variable and in a coordinating role.

In the first case, the security regime itself is the main model or set; While in the second, the security regime is a sub-pattern or subset. If a security regime is part of a model or a member of another group, there is no such thing as a system based on a security regime (Abdallah Khani, 2019:417).

The most important criterion for assessing the existence or possibility of a security regime in an environment is the "hatred of war" among the member states of the security group. In this framework, the leaders of the member states must ensure that they share a "common hatred." (Astin ,1982:11)

The criterion of war aversion is strengthened when the states of the security complex have no doubts about each other's intentions regarding war aversion. Since a certain degree of doubt and distrust can always be imagined in relations between states, the criterion of war aversion can be reliable even at its weakened level.

Another important criterion in the analysis and assessment of the security regime is the "principle of cooperation in "Equal competition" between the parties or within the security group. (Little, *ibid.* 669: - 668.) Accordingly, member states of a security group should not trade the "common good" approach for the "unilateral benefit".

In international law, in order to ensure the principle of cooperation in equal competition, they use the mechanism of "reciprocal action". In this regard, one can refer to articles 49 to 53 of the draft of the International Law Commission of the United Nations See the Responsibility of States for Internationally Wrongful Acts (2001).

Group norms that define "rational" behavior also influence cooperation, so the closer the norms of players in the international or regional arena are to each other, the more likely cooperation will be. Security regimes are classified into four broad categories based



on their degree of “formality” and “convergence of expectations”: full-fledged, implicit, non-formal, and no-regime. Formality refers to the existence of agreements, negotiations, and statements establishing a security regime, while convergence of expectations refers to the degree of support provided by the security regime in question.

Accordingly, in full-scale regimes, the degree of formality and convergence of players’ expectations is high. While in implicit regimes, the convergence of players’ expectations or support for them is high, but the degree of formality and, in other words, the agreements, declarations or negotiations carried out regarding them is limited.

The degree of legitimacy of unreliable regimes is also high, but the support they receive is small, and ultimately, the regime's failure is when there is little legitimacy and support. This means that calling something a security regime requires a degree of formality and non-support (Little, *ibid.*, 685).

The security regime-based system can be divided into two general categories: “security institutions” and “limited security regimes.” In this framework, institutions are a set of concepts, contracts, agreements, and mechanisms that are embodied in organizations with specific staff, programs, goals, and budgets. Institutions are the result of decentralized cooperation of individual sovereign states, without any centralized and effective command mechanism (Abdallah Khani, 2019: 425).

The security institution as one of the two main aspects of a system based on a security regime does not address any type of security institution; because by the above definition, security institutions based on the balance of power or military alliances such as NATO and the Warsaw Pact during the “Cold War” were also Security institutions; following Kikuga’s view, the most important criterion for determining the distinction between security institutions is that such institutions are not organized to confront a specific third party and the threats arising from it; rather, their overall goal and index should be stabilization, peacebuilding, and security as public goods and within the framework of absolute interests (Kikuga, 2016: 18, 15). In particular, ASEAN and Shanghai can be cited as examples.

#### **Analytical Paradigms of International Regimes**

The Mary Webster Dictionary of the English Language defines a paradigm as “a philosophical and theoretical framework of a discipline or school of science, along with the theories, laws, generalizations, and empirically derived principles that have become established.” (Merriam-Webster (2020), philosopher of science Thomas Kuhn also first defined a paradigm in his book “The Structure of Scientific Revolutions” as follows:

“A globally recognized scientific finding that, for a period of time, constitutes a pattern of issues and approaches to international regimes on the spectrum of idealism and liberalism. According to this theory, regimes are considered mechanisms for establishing an institutional (lawful) behavior in international relations.” (Dehqani Firozabadi, 1994:157).

In this regard, the analytical paradigms of regimes can be broadly divided into three groups: structuralists, Grotiusians, and modified structuralists. Structuralists consider regimes as power-dependent variables, Grotiusians consider them as independent variables, and modified structuralists consider them as intermediate variables; in this sense, they both accept the influence of power and interests on regimes and believe that they are Regimes influence international achievements and behavior.

Given the aim of this study, which is to explain the institutional position of international security regimes in the legal order governing the international legal system with the aim of creating stability and lasting peace in the international system, we will only explain the views of the two paradigms of Grotiusians and reformist structuralists.

#### **Grotiusians**

In order to be included in this group, it is necessary to ignore power as a key factor in the behavior of the players. This group considers international regimes as independent variables that, while not subject to any influence from the sphere of power and interests, affect achievements and results and are considered an important factor in regulating the behavior of countries.

The ideas of this group are based on idealistic views of creating a world government through the expansion and spread of international cooperation and the development of international law (Delbury, 1998:86). The debates related to the followers of Grosius are precisely the same debates that exist regarding the importance and role of international law in creating global cohesion and controlling international conflicts, and they are somewhat different from the way and how power affects the creation of They do not discuss international law or convergence (as institutionalists envision); because essentially, before the emergence of the discussion of international regimes, the framework of legal debates and international politics was different.

In international relations, which realists have been united in, international relations are viewed from the angle of issues such as interests, power, and the balance of power; but in the framework of the discussion of regimes, these angles are sought to be discussed as Regimes and institutionalism are brought closer together and view the world from both legal and political perspectives to create a comprehensive understanding (previous). Grotiusians believe that regimes have an independent life and exert an independent influence on the outcomes and actions of actors. In the literature on regimes, Donald Pochala, Hopkins, and Oran Young are introduced as representatives of this group (Asgarkhani ,2014:10)

In the same context, Young (1982:94) believes that the existence of similar expectations and regular behaviors of players is an important factor in the creation and continuation of the life of social institutions, and these in turn will lead to the organization of a set of governing rules and regulations that place the behavior of players in a specific framework, and he concludes that the most important characteristic of regimes compared to other social institutions is that regimes play an independent role in shaping social rules.

Ronald Puchala and Raymond Hopkins believe that in every subject of international relations, there is a regime. Whenever there is order and rule in behavior, there must be some set of principles, norms, or instructions that explain and interpret it. According to them, regimes serve to enhance the interpreter's ability to interpret international developments and provide a tool that enables interpreters to interpret the behavior of participants. In each regime, they limit and regulate or determine the legitimacy and condemnation of each activity and identify the impact on the possibility or impossibility, time, and manner of resolving conflicts.

#### **Structuralists**

This group of debates is based on the belief that the world system is a combination of countries that seek to increase their interests

and expand their power, and that the increase in the power of one means the decrease in the power of another. In this framework, some have sought to consider the discussion of regimes as a very important discussion in relations between countries, and the discussion about the impact of the distribution of power on the external environment has been further explored. In other words, although countries seek to increase their power at the international level, this increase in power is presented within the framework of classical and structural realist theories. Here, games such as the Prisoner's Dilemma are presented in game theory; of course, a zero-sum game is not intended here. Rather, it is a game of multiple outcomes that requires cooperation between units (Krasner 1983:118, 1-116).

International regimes, from the perspective of structuralists, are seen as intermediate variables that lie between the powers of the state on the one hand and the behavior of other players on the other. In other words, while regimes are influenced by their environment in their creation, they themselves can behave. They regulate states and influence the interaction of states in the international community.

Accordingly, over time, regimes become closer to independence, and changes in international conditions do not necessarily lead to regime change. The approach to international law and international relations is not in any way a legal philosophy aimed at resolving intellectual disputes between different schools of thought and different views; it merely seeks to provide the necessary tools. Each of them decides to be able to prove his point of view.

Choosing a particular method requires following a particular school of thought. For example, it has become clear that the supporters of "natural rights" do not follow the method of the positivists. So, in general, the study of philosophy requires following the dominant currents of thought. The approach to international law and international relations has been a completely interdisciplinary approach that follows the insights of the theory of relations. Internationalism refers to the behavior of international actors in international law.

The results of this have been diverse and range from studies related to nationality to analyses of the stability and effectiveness of international institutions and the ways in which state behavior patterns influence the content and subject matter of international law (Abraham Gul, 2014: 24). Generally, by placing legal rules and institutions in their political context, relations. The international has helped to reduce the abstraction and self-sufficiency of doctrinal analysis and has guided normative idealism in effective directions.

Although lawyers always describe rules and institutions, followers of the relational approach to international law inevitably – and often unconsciously – use certain mental models that are often positivist. Models of social interaction underlie international relations that are carefully. They are constructed, reminding us that these models must be chosen carefully.

The method of international law and international relations helps us to describe legal institutions and brings into them the political factors that shape law. Including the interests, power and governance structures of states and other actors, the information, ideas and understandings on the basis of which they act, and the institutions within which they interact.

Lawyers who have developed international relations theory. It may treat institutions and legal rules as phenomena that need to be defined. The question that may be asked is what factors led states

to commit themselves to international regimes and be bound by them? Something that may logically be considered contrary to the sovereignty of states but may not be so when considering the interests of states.

Of the four approaches, realism, institutionalism, Structuralism and Liberalism in the Approach to International Law and International Relations. Due to the closeness of the institutionalist approach to the theory of international regimes, this article uses this approach to explain the legal position and functioning of international security regimes.

The focus of many "institutionalist" specialists is a similar model of decentralized state interaction. Some of them believe that states are "real" actors that. They clearly define national interests, they share with realists; but most of them see the state as a legal hypothesis that has been given a reality that transcends the reality of the individuals who are its subjects.

As a result, in the territory under the government, there is no trace of the "state" of people; what is there is only the citizens who have a direct presence in it.

These specialists rely on a state-centered rather than an "individual-centered" analysis. The relational approach. International law encompasses a wide range of interests that are best served by cooperation between states; interests such as peace and security and a healthy environment. Regime theory, a broader branch of the institutionalist approach, considers information, ideas as well as power and interests, and attributes a significant role to private and public actors and domestic politics.

By this definition, institutions, which, broadly interpreted, include norms or rules and organizations, can have independent effects on behavior. They facilitate the type of interaction, negotiation, implementation of agreements, and other substantive interactions by changing the conditions.

For example, institutions can reduce negotiation costs, provide impartial information, create cognitive focal points for coordinating decentralized activities, bring neutral actors into conflict situations, eliminate loopholes in imperfect contracts, and facilitate resource pooling; of course, the barriers that create the need for institutions are themselves barriers to their formation.

Institutionalists accept traditional sources of international law, especially those that express voluntary agreements between States, and apply a helpful perspective to national judicial decisions and norms declared by international organizations and tribunals. Some of them also follow relevant normative statements; although in practice, the institutionalist approach focuses on treaties.

### **Systemic analysis of international law**

System is a term that is widely used in the literature of political science and international relations today. A system is a theoretical framework for organizing data related to political phenomena, as well as an integrated set of relationships based on a given set of political variables. (Duwerty and Faltzgraf: 2005, 223) In an analytical approach to the "system of international law", we must distinguish between its various levels; so that, despite the co-existence of variables such as international society, international order and international community, these variables are not equivalent in nature.

"International community" is a group that is formed on the basis of the material needs of its components; therefore, if in this group there is a scale. From the cohesion that emerges with a mutual

understanding of common values, we will witness the formation of an international community whose main characteristics are cooperation, cohesion of its members and belief in common values. The “international legal system” and the “international legal community” are both formed from legal norms, rules, principles and beliefs.

With the difference that in the first sense, norms are more formal and in the second sense they are dominated by “values” It is “commonality” that constitutes the nature of norms; although, in the first place, norms exist as universal rules, norms of command and fundamental human rights commitments, they have not been accepted to the extent that they truly reflect “common values” either in terms of quantity or in terms of guarantee of implementation (Shehbazi, 2017:49).

Acceptance and recognition of the relationship between rights and society, 3 signs of the necessity of a link between the system International and legal system. While the first concept is more concerned with the audience and geographical scope of the system, the second concept deals with the norms and rules contained in the system. “Legal system” usually refers to the quality and quantity of relations contained in the legal system. In other words, legal system helps to give meaning to the legal relationship contained in the legal system or a set of legal norms (Coyle et al. 2002: 279). In this connection, and according to (Zamanaha, 2000:30-302), we come to the concept of “pluralism,” which is the belief in the presence of several legal regimes or norms, such that none of them is considered to be in conflict with the other, and such a situation not only does not lead to the weakening of the legal system; but also strengthens the coordination and efficiency of the system.

### **International Law System**

The international law system is a complex set of norms, customs, and legal regimes that are capable of structuring the interaction and interaction between its components and bringing them together in a coherent form (Lack, Kavi et al., 1981:140). In terms of the international law system, “international law” in the conventional sense, geographical boundaries give way to functional limitations. However, if international law is necessarily conceived as a legal system and follows a specific legal logic, then, despite functional limitations depending on the subject matter, it will still be possible for subsystems to exist within the overall system of international law. (Theubner and Fischer 2004:100) Thus, while we are faced with a general system of international law, the existence of several subsystems within this systematic scope is possible.

The system of international law and its subsystems, as “social rationalities,” like other systems, are capable and successful in “recognizing the differences between the internal and external environment of the system.” (Luhman 1992:1423-1419)

Therefore, to distinguish between a system and its external environment, two factors are considered: its “openness” and “closedness”. Every system, while closed in terms of norms, is open to “new realities”; therefore, a system draws the boundary between itself and its external environment with the help of “new realities” and “norms”.

The realities accepted in a system are different from the realities of other systems, and since legal regimes cannot exist alone, To continue; a kind of structural link in the form of normative intersection or symmetry creates the context for the connection of these systems. Therefore, the entire system of international law is

composed of a parent system (public international law) and its subsystems (private international law).

### **Elements of the International Law System**

Every open system has the following characteristics: Inputs of the legal system: Inputs are a set of elements that enter the system in the form of demands, interests, supports, and objections, and after the exchange between the environment and the system, they exit the system as outputs. (Qawam, 2002:30) International relations constitute most of the inputs to the international legal system. These inputs have different bases, origins, and requirements.

A. Examples of these inputs are those that are considered a direct reflection of the structure of the systemic environment; such as the dominance of the natural state over the civil state in the international community, of which anarchy and the supremacy of power politics over the rule of law are its tangible manifestations, the supremacy of the interests of the system's components over the interests of the system, the disproportionate distribution of capacities, and the centrality of the state.

B. Inputs that are influenced by established situations; such as the sensitivity of states to security.

C. Inputs that shape the way actors interact, behave, and identify in the international environment. The relationships that exist in the international environment range from confrontation, the extreme form of which is war, to interaction and convergence.

D. Regional concepts, patterns, and frameworks also play an important role in the process of shaping the inputs of the international legal system; concepts such as systemic interests, collective security, peace, and disarmament (Azadbakht, 2010:161-162)

Outputs of the International Legal System: The outputs of the system are manifested in the strategies and decisions of the system. Positive and negative feedback: When an output of a system interacts with the influencing components of the system environment, the same output, at a later stage, penetrates the body of the system as an input and plays a role in the growth and evolution of the system, and as an irreversible process, it forms part of the identity of the legal system, which is called positive feedback.

In some cases, some of the outputs of the legal system do not coincide with the interests and goals of some of the subjects of the legal system; in these cases, the main subjects usually adopt a unilateral policy in response or violate the intended output, which in these cases is a negative feedback (Azadbakht, *ibid.*, 165)

In general, state policies, the inputs of the international system, and the set of accepted laws and organizations shape the structure of the international system. Structures receive inputs and translate them into tasks, into actions.

Collective decisions are the outputs of the international system. These outcomes may alter the international environment in ways that create convergent or divergent tendencies within the international system (Duirty and Faltzgraf, *ibid.*, 677).

Therefore, legal and security regimes (legal subsystems) are influenced both by the parent system (public international law) and by the surrounding environment and other security regimes, and it is in the interaction between these subsystems that the role of each is to strengthen or it is weakening.

### **Functions of the International Legal System**

The complexity of the international legal system has made it difficult to accurately assess its functioning. A systematic analysis of this issue will be possible only to a limited extent in the light of an understanding and examination of the structure, mode of interaction, role, and identity of the system's subjects.

Accordingly, we can describe the systemic functions of international law as follows: - Creating equilibrium and stability: Stability means the continuity and continuity of the relationships between the variables of the system, the opposite of which is a state of disequilibrium. Systems are either stable or unstable, but at the same time they can have different levels of equilibrium.

- Prevention and deterrence: Armed conflicts, terrorism and weapons of mass destruction are threats facing the international community, and their prevention and control are considered to be among the most important functions of a legal system in international relations. Among them, the nuclear non-proliferation regime can be referred to as one of the international mechanisms for crisis prevention and control.
- Legitimizing social situations: States have moved towards a central responsibility towards their people. Therefore, the form and extent of people's activity in demanding their rights can lead to specific social situations. We have previously stated that the international legal system does not prevent the presence of regimes as legal subsystems within the subset of the parent system (public international law); Therefore, since international law lacks the same strong enforcement guarantees as the domestic legal system of states, international security regimes can help the international legal system to realize its defined functions from a potential state to an actual one, and international peace and security can be more fully guaranteed.

#### **The legal order governing the international legal system**

The international legal system and the international legal system are closely related; however, this does not mean that these two concepts are used in exactly the same sense. The main characteristic of the concept of international society is "transformation", a transformation that affects and is affected by the legal community.

Today, the classic bilateral approach between states is not the dominant approach. The United Nations plays a structural and fundamental role in shaping shared values; these values are reflected in resolutions or documents issued by the organization or during consultations, meetings and conferences attended by a significant number of international actors, from states to international organizations of which they are members.

The International Court of Justice has also played an influential role in clarifying and interpreting the concept of the international community, and this process continues. The Court's emphasis on UN General Assembly resolutions and its opinions and observations in cases such as the Corfu Channel (1949), the Right to Conditions under the Genocide Convention (1951), the Barcelona Traction (1970), the hostage-taking of US Embassy employees in Tehran (1980), the Legality of the Threat and Use of Nuclear Weapons (1996), and the Wall case (2004) all demonstrate the Court's focus on "shared values" for the development of an international legal community. To identify any community, the group in question must be identified as a community.

Therefore, first of all, there must be a degree of solidarity and strength in the relations between the members of such a group, so that they can be distinguished from other similar groups. First, however, it must be possible to draw a boundary between that group and other groups. This is because a "community" as opposed to a "society" only denotes the "practical dependence" of its members on other similar groups.

Therefore, it is necessary for such a society to be formed, with the recognition of social beliefs, around specific values and interests, and in this way a "society" will be formed (Abisaab, 1998:249). Accordingly, the international community is the arena of common interests of states that have moved throughout history from bilateralism to multilateralism with an emphasis on common values.

The most important problem with international law has been that it has shown too much limitation in its voluntary behavior; it is certain that such a system is capable of doing nothing but securing the interests of particular states (Philosophy, 2006:73). Two important components influence how the prevailing legal system affects the international legal system.

These components are sovereignty and globalization. "Sovereignty" in contemporary international law is a "status" that justifies a state's existence as a member of the international system (Chaysh and Chaysh, 2000: 417). This reflects the interdependence of states and the changing concept of sovereignty since the eighteenth century. The need for cooperation in such a system makes the importance of the nature of international regimes in the field of international relations even more clear.

A "legal system" is primarily based on "organized, planned, and predictable relationships among a set of legal institutions and norms that serve to distribute values or interests or to achieve the will of the relevant stakeholders" (Dupuy, 2006: 22). Accordingly, it seems that a legal system is most often manifested in intrasystemic contracts, customs, general legal principles, and also in the practical practice of states and has a mental aspect.

The same is true of the belief in the existence of shared universal values among states. These two concepts can therefore explain the legal position of international institutions and regimes that seek to establish values such as international peace and security within the general system of international law.

#### **The Legal and Functional Position of International Regimes in the International Law System.**

After the emergence and expansion of international regimes, especially in the twentieth century, and with the emergence of universal regimes such as the United Nations, numerous questions arose regarding their functioning in the state-centered system. The first question related to the legal status of such regimes is the legal personality of international regimes and the limits of their authority and powers within the system. In the same vein, the functioning of the regimes will also be assessed based on the degree of independence of their action in international relations and on the basis of the performance of their actual or potential tasks.

The answer to these questions, from the perspective of institutionalism in the approach to international law and international relations, can more precisely demonstrate the necessity of the existence and role of international security regimes in the international system.



## Legal Personality of International Regimes

We can speak of legal personality if an international regime, despite being created by states, enjoys independence in its decision-making processes. The most important sources of legal personality of the aforementioned regimes are:

- The statutes of the regimes, which specify the participating units, the limits of competence, the powers and the subject of the legal personality of the regime.
- International legal proceedings, such as the Advisory Opinion of the International Court of Justice (1949) on Compensation for Damages Suffered by Members of the United Nations, in which the United Nations was recognized as the highest model of international organizations and it was stated that if this organization did not have legal personality, it could not achieve its objectives.

## Authority and Powers

Two views are put forward on this subject. The view based on explicit authority is based on the analytical assumption that the international system is a state-centered system and that states are considered its most important and unique constituent units. Therefore, other entities, including international regimes that are created outside of states, have a certain amount of authority and power that is explicitly and clearly delegated to them by states, and this is expressed in their statutes or, in other words, their founding documents (Kerimi Keshe, *ibid.*: 46).

On the other hand, the implicit authority perspective emphasizes the assumption that regimes are created to achieve their goals and objectives. They have diverse purposes and must therefore have the necessary powers and authority to carry out the functions envisaged.

This group considers the advisory opinion of the International Court of Justice (1949) as an important criterion: "In accordance with international law, the organization must have the necessary powers to carry out its purposes, even if they are not expressly provided for in the Charter." Or one could refer in particular to the Namibia case (1950) which It placed South Africa on the same footing as the United Nations, and the Court declared in its opinion that the United Nations could, in place of the League of Nations, assume the administration and control of a Trust Territory (Namibia).

## The Function of International Security Regimes

In principle, in view of the degree of independence of the regimes in the exercise of their functions, three roles are considered for international security regimes: instrumental, Modifiers and the role of the independent player. The first conceivable role is their function as instruments to achieve the intended goals.

In this case, regimes are the site of a struggle between the interests and power of the participating players, and their members are more eager to use them as instruments. Therefore, they cannot be imagined as independent players. The instrumental use of regimes is directly linked to the construction of power in the international system. Will have (creamy, same 44 :)

In the role of moderator, international security regimes provide a space in which entities consider thematic issues of relevance to the exchange. Regimes are, in effect, institutional frameworks within which actors negotiate their policies on issues within the regime framework. Regimes can, to some extent, modify the policies of participating entities on a particular issue.

Ultimately, in the role of independent actor, regimes will act without being influenced by external and internal forces and will enjoy independence of action. This will conceptualize the international regime as an entity distinct from its members, acting as an actor in the international relations arena.

## Conclusion

Focusing solely on people and ignoring legal institutions leads to the separation of rights from social and political realities, and the proliferation of institutions and rules of international law as a reality in the international community has made it impossible to understand politics without understanding rights. International lawmaking predates the emergence of the modern state, but it is only in the twentieth century that regimes have become recognized as a global phenomenon.

Liberal theories of international relations have played a clear and irreplaceable role in the development of international law. The emphasis of the followers of this school on international institutions and regimes, international law, collective security, rule of law, and the creation of organizations such as the United Nations itself suggests the important role of this school in the development of international law.

Today, the classical bilateral approach between states has given way to an institutional approach based on the shared values of the international community. The international community, while being "anti-state," is anti-state in the sense that it does not seek to create a "superstate" or a "world government," but rather strengthens the independence of states.

The multifaceted role of global institutions such as the United Nations and its organs is itself a testament to this. Yet states still prioritize their own interests over those of others. In order to ensure universal values such as international peace and security, it is necessary to regulate the behavior and interaction of states through institutions. Among the most important of these institutions are international regimes. This research has not sought to fabricate facts or invent new concepts. This article has sought appropriate lessons that are best suited to the international perspective. Therefore, in each of the scientific fields of law, various research methods can be used.

In light of the findings of this study, the explanations that the institutionalist perspective offers in the approach to law and international relations with an emphasis on political function shape our understanding of legal rules and institutions; As an example, let us assume that we have understood the function of an international security regime to prevent the proliferation of weapons of mass destruction. Following this assumption, we expect that the evolution of this regime will depend on the changing needs for deterrence, and that efforts at reform and change will focus on clarifying the rules and increasing the certainty of prosecution and prosecution.

However, if we see that particular security regime in terms of its roots in the efforts of relevant international institutions in regions that have experienced devastating wars or arms races, its evolution depends on the behavior of those groups, and its reform and change depends on their acceptance of the possibility of return and the individuals who represent them.

Finally, if we understand that security regime conceptually; That is, as a reference that crystallizes shared beliefs about appropriate behavior, its future may be linked to the evolution of those beliefs,



and its reform and change may be focused on facilitating dialogue between its judges and society at large. If we see these understandings as complementary rather than as substitutes for each other, we will have a rich list of institutional reforms and improvements that will all be closely related.

Based on this research, we conclude that international institutions provide an opportunity for states that have not achieved the desired results in strategic interactions to improve their results by creating a new balance. For such a balance to be stable, the institution must create common expectations of behavior. Each player expects that, before he can be sure that following the rules will be beneficial to him, the other players will also follow that rule or agreement.

To create such a “common assumption” in situations that are described by unreliable information, the agreed-upon rules must be very precise. According to the findings of this study, the belief in “legal pluralism,” which means the presence of multiple legal regimes or norms, is not incompatible with the international legal system, and such a situation not only does not weaken the legal system, but also strengthens the coherence and efficiency of the system. A systematic approach in diverse cultural spheres must be taken seriously.

Cultural diversity has become a global phenomenon, but concepts such as international peace and security have become a common concern of societies that are not specific to a particular civilizational region. Support for such a value, which depends on the motivation and intentions of states in an international anarchic environment, will only be possible through a theory of regimes that acts as a bridge between international law and relations. Based on the findings of this study, the following suggestions are made:

- Limiting oneself to a positivist approach in the study of international law will distance the intellectual horizons of students of this science from the realities of the international system, and the result will be lagging behind the rapid developments of the international community; Therefore, the teaching of other disciplines, especially the discipline of “International Law and Relations”, should be a priority for the education system in the field of higher education and the Doctorate in International Law.
- Since it is possible that in some cases some states may violate the rules or principles of the regimes and there is a risk of confrontation that can easily get out of control, the regimes’ monitoring mechanisms should be strengthened more than before. In this context, the secondary rules on grave breaches contained in the draft of the International Law Commission on the Responsibility of States (2001) are of great help.
- The evolution of the international community and the legal order governing it has demonstrated the inevitability of international security institutions and regimes. Therefore, it is suggested that small and medium-sized countries gain more certainty about securing their vital interests by becoming members of regional security regimes. In this way, the friction between the players’ self-reliance and the goals of regional and international coalitions will be significantly reduced, and international peace and security will be more achievable.

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