

The Power-Legitimacy Syndrome in International Law (The Threat of Territorial Annexation as a Mechanism for the Reproduction of Legal Norms)

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Abstract

Since its modern inception, international law has been structured around a persistent structural tension between its normative claim to restrain the use of force and to regulate international relations on the basis of sovereign equality, and the reality of power asymmetries that effectively govern international practice. International law does not eliminate the logic of power; rather, it reintegrates it within a legal framework that delineates spheres of prohibition and authorization, thereby allowing legal rules to be reinterpreted in light of prevailing power configurations. In this context, the practices of great powers acquire particular significance, insofar as they actively contribute to redefining the substantive content of legal norms and the limits of their binding force, not only through explicit violations, but also through the normalization of threatening discourse and its incorporation into what becomes legally tolerable. The statement by former U.S. President Donald Trump regarding the annexation of Greenland constitutes a revealing illustration of this shift: its significance lies not merely in the potential infringement of territorial integrity, but primarily in the instrumentalization of the threat of force as a means of implicitly renegotiating the legal norm itself. Tolerance of such practices leads to the erosion of compliance and the undermining of sovereign equality, resulting in a transformation of legitimacy from a normative, rule-based conception to a factual legitimacy grounded in the imposition of faits accomplis. Consequently, international law continues to operate not as an effective constraint on power, but as a discursive framework that enables its justification and the reproduction of dominance within a system that nonetheless claims legal authority.

Keywords: Power, Legitimacy, Compliance, Territorial Annexation, Legal Hegemony, Sovereign Equality.

Introduction

International law, since its modern emergence, has remained governed by a persistent structural tension between its normative regulatory claim over international relations and the reality that these relations are in fact founded upon concrete asymmetries of power and influence. This law, which presents itself as a legal framework regulating the conduct of states on the basis of

sovereign equality and the prohibition of the use of force, historically arose within an international context that never truly knew an effective balance among its constituent units; rather, it has been and continues to be conditioned by sharp material, military, and economic disparities among states. Hence, the central question in international law has not been whether power exists in international relations, but how this power is incorporated into a legal structure that claims legitimacy and binding force.

Classical international legal scholarship, especially since the first half of the twentieth century, sought to confront this dilemma by conceiving international law as an instrument to neutralize power and subject it to a legal logic. In this context, the project of Hersch Lauterpacht stands out, as it aimed to expand the scope of the rule of law within the international community by stripping international disputes of their political character and bringing them within the sphere of legal and judicial settlement. Lauterpacht proceeded from the premise that excluding disputes from the legal domain on the ground that they are political does not reflect their true nature, but rather reflects states' will to preserve unconstrained spaces for coercive action. Accordingly, the function of international law, in his conception, is to restrain power rather than to legitimize it, and to transform the international community from a space of political struggle into a legal order governed by general rules. Yet this normative conception soon encountered profound structural challenges arising from the horizontal nature of the international system and the absence of a central authority capable of enforcing compliance. This, in turn, gave rise to later doctrinal trends that reconsidered the function of international law not merely as a constraint on power, but also as a framework that permits the organization of its use and confers upon it forms of legal legitimacy. In this context, some have moved in another direction by offering a structural analysis of the function of international law through distinguishing between a framework of obligation and a framework of authorization, arguing that international law operates not only by imposing prohibitions, but also by enabling states to undertake certain acts in the absence of an explicit prohibition. This analysis revealed that international law does not abolish the logic of power; rather, it reshapes it within a legal discourse that determines what is permitted and what is prohibited, what is exceptional and what is the rule. Within this framework, the practices of great powers acquire particular analytical significance not because they constitute an exception to the rules, but because they effectively contribute to redefining the content of these rules and the limits of their applicability. International law, as a system reliant on voluntary compliance and mutual acceptance, is directly influenced by the conduct of the most powerful actors, whether through their actual practices or through the legal discourse accompanying those practices. Indeed, by approaching this reality in the context of international law in the Americas, it becomes apparent that the United States played a central role in reshaping international law as an instrument of legal hegemony, whereby expansionist and interventionist projects were presented in a legal form that claims universality and neutrality an analysis that shows that international law has not always served as a constraint on power, but has often been transformed into a language for legitimizing it.

Within this general context, the issue of threatening territorial annexation and what U.S. President Donald Trump declared through his decision to annex Greenland emerges as one of the most revealing practices of the tension between power and legitimacy in contemporary

international law. Territorial annexation, whether carried out by force or by the threat of its use, directly clashes with fundamental principles such as the prohibition of the use of force, respect for territorial integrity, and the right of peoples to self-determination. Nevertheless, international practice discloses recurrent attempts to readjust these principles through a legal discourse grounded in notions of security, necessity, history, or vital interests. The case relating to statements and signals issued by the U.S. leadership concerning Greenland thus gains particular importance, not as an isolated political event, but as a contemporary expression of a structural pattern in the exercise of power within a legal framework. Here lies the core problematic of our study: the central question it raises is the following **to what extent do practices of threatening territorial annexation by great powers contribute to transforming international law from a system designed to restrain power into a framework that legitimizes its use, and what is the impact of this transformation on compliance and legitimacy within the international system?** The answer to this question will be developed throughout the present study.

First Axis: The Dialectic of Power and Legitimacy in International Law

The issue of threatening territorial annexation and its impact on international law cannot be approached without addressing the foundational concepts upon which this system rests foremost among them power and legitimacy. International law, unlike domestic legal systems, emerged and developed in a space devoid of a supreme central authority, which made the relationship between the legal rule and material power problematic from the outset. Accordingly, power in international law is not posed as an external element that threatens the system, but as a structural element with which law interacts through regulation, restriction, and legitimation.

First: The Concept of Power in International Law

Power in international relations, in its primary sense, refers to the material capacity for coercion, whether military, economic, or political. Yet international law does not deal with power as a mere external reality; rather, it seeks to regulate it through rules and standards that govern its use and determine its lawful and unlawful forms. This tendency was clearly embodied in the development of the principle prohibiting the use of force after the Second World War, particularly through the Charter of the United Nations¹.

This regulation, however, did not eliminate the presence of power; instead, it reintegrated it within a legal structure that permits certain forms of its use under various designations such as self-defense or the maintenance of international peace and security. Here the structural tension becomes apparent: international law does not negate power; it recognizes and regulates it, which opens the door to reinterpreting the rules in accordance with the prevailing balance of power².

1 Ian Brownlie, *International Law and the Use of Force by States*, Oxford University Press, 1963, pp. 05-15.

2 Christine Gray, *International Law and the Use of Force*, Oxford University Press, Oxford, 2008, pp. 03-25.

International law operates within two overlapping frameworks: a framework of obligation that imposes clear constraints, and a framework of authorization that allows states to act in the absence of an explicit prohibition³. Thus, under this approach, power does not operate outside the law; rather, it often moves within it, benefiting from its gray areas.

Moreover, the relationship between power and international law is not limited to the question of compliance or violation; it extends to the very process of producing the legal rule itself. International law, by virtue of its horizontal nature, is shaped through the repeated practice of states, especially the most influential ones. Hence, power becomes a determining factor in defining the substance of rules and their interpretation⁴.

In this context, the historical analysis offered by Juan Pablo Scarfi shows that the United States, since the late nineteenth century, contributed to reshaping international law in the Americas through legal and institutional networks that presented expansionist projects in a legal form⁵. This example demonstrates that power operates not only through breaching rules, but also through redefining them.

This understanding intersects with the probabilistic analysis advanced by Ingo Venzke, which rejects the idea of the inevitable development of international law, emphasizing that existing rules are the product of political choices and particular power balances that could have evolved along different paths⁶.

Second: Legitimacy and Its Basis in International Law

Legitimacy in international law differs from legitimacy in domestic law. In the international system, legitimacy is grounded in states' acceptance of legal rules and their mutual recognition of the duty to comply with them, rather than in the existence of a central authority that monopolizes the legitimate use of force. This leads us to conclude that states' compliance with international law is fundamentally linked to the collective perception of the legitimacy of these rules, thereby generating voluntary commitment to them, as Thomas Franck has shown in his analysis of the power of legitimacy in international relations meaning that legitimacy is closely connected to the idea of voluntary compliance⁷.

In one of its normative conceptions, the legitimacy of international law is understood to manifest in its capacity to reframe disputes among states within a legal and judicial order, enabling their subjection to institutional legal rationality rather than to equations of power and dominance. This conception rests on the assumption that subjecting international relations to the rule of law would reduce recourse to violence through the establishment of institutional and

3 Jan Anne Vos, *The Function of Public International Law*, Oxford University Press, United Kingdom, 2013, p. 10.

4 Prosper Weil, *Towards Relative Normativity in International Law?*, *American Journal of International Law (AJIL)*, Vol. 77, No. 3, 1983, pp. 413–442

5 Juan Pablo Scarfi, *The Hidden History of International Law in the Americas: Empire and Legal Networks*, Oxford University Press, United States, 2017, p. 42

6 Ingo Venzke and Kevin Jon Heller, *Contingency in International Law*, Oxford University Press, United Kingdom, 2021, p. 21

7 Thomas M. Franck, *The Power of Legitimacy among Nations*, Oxford University Press, 1990, pp. 16-26.

judicial mechanisms that enable disputes to be settled by peaceful and organized means. Yet this understanding of legitimacy remains, in practical application, contingent upon the extent to which states are willing to accept the legal constraints imposed on their exercise of sovereign prerogatives especially in matters touching upon their core interests or national security considerations. International practice reveals a clear imbalance in the realization of this assumption, as states comply with legal and judicial obligations to varying degrees, oscillating between selective compliance and explicit disregard, particularly when powerful political and military states are involved thereby imposing structural constraints on the effectiveness of legal legitimacy grounded in adjudication as a practical alternative to the use of force in international relations⁸.

When practices of threatening or using force by certain states recur without effective accountability, the legitimacy of international law is shaken. Rules that are applied selectively lose their capacity to generate compliance and are transformed from binding standards into discursive tools. The principle of reciprocity constitutes one of the structural pillars of legitimacy in the international legal system, as a horizontal system based on sovereign equality among states and lacking a supreme central authority capable of imposing or coercively enforcing rules. In this context, international legal rules derive their effectiveness and legitimacy from states' mutual adherence to them, such that respect for a legal rule is linked to the expectation that the other parties will comply with it under similar circumstances. This reciprocity-based equilibrium plays a pivotal role in fostering mutual trust among states and in conferring stability and predictability upon international conduct⁹. Accordingly, the exercise of power outside the logic of parity undermines not merely a particular rule, but the very foundation upon which legitimacy itself rests.

Third: From the Legal Regulation of Power to Its Legitimation

The prohibition of the use of force constitutes one of the most significant achievements of contemporary international law¹⁰, reflecting a clear ambition to restrain power through general rules. This principle formed the core of the collective security system and presupposed a clear distinction between lawful and unlawful conduct. Yet this restraint remained conditioned by weak enforcement mechanisms, which made its observance depend, to a large extent, on the will of the most powerful states¹¹. In the absence of effective centralized enforcement, international law sometimes shifts from an instrument of constraint to an instrument of legitimation. Powerful states do not deny the rules; rather, they reinterpret them to serve their practices. This is done through a legal discourse invoking notions such as necessity, security,

8 Hersch Lauterpacht, *The Function of Law in the International Community*, Oxford University Press, United Kingdom, 1933, pp. 03-10, 87.

9 Arianna Whelan, *Reciprocity in Public International Law*, Cambridge University Press, United Kingdom, 2021, p. 15.

10 Christine Gray, *International Law and the Use of Force*, Ibid, p. 6-7.

11 Jean Combacau & Serge Sur, *Public International Law*, Montchrestien (Lextenso), Paris, France, 2010, pp. 575–580.

or exception¹². This shift becomes particularly evident in cases where threats of using force are normalized without a decisive legal response, leading to a redefinition of the boundaries of the lawful and the unlawful. Here international law does not collapse; it continues to operate in a distorted manner, producing selective legitimacy¹³. Thus, the essence of the relationship between power and legitimacy in international law is not one of simple opposition, but a complex structural relationship: international law seeks to restrain power, yet is simultaneously influenced by power in its production, interpretation, and application. When this relationship becomes skewed in favor of power, legal legitimacy erodes, and the law is transformed from a general normative framework into an instrument of selective legitimation¹⁴.

Second Axis: The Threat of Territorial Annexation as a Structural Test of International Law

Territorial annexation, whether realized in practice or limited to the threat of using force, constitutes one of the most serious challenges facing contemporary international law, as it strikes at the very core of the fundamental principles upon which the international system is built most notably the prohibition of the use of force, respect for territorial integrity, and the sovereign equality of states. The gravity of this conduct lies not only in its potential material consequences, but also in its structural legal function, insofar as it represents a practice that tests the limits of the legal rule and its capacity to withstand power asymmetries¹⁵.

First: The Prohibition of Territorial Annexation in International Law

The prohibition of territorial annexation constitutes a direct consequence of the consolidation of the principle prohibiting the use of force in international relations a principle that developed gradually through the Covenant of the League of Nations and was later enshrined in its contemporary form in the Charter of the United Nations¹⁶. Annexation, as the permanent acquisition of the territory of another state, cannot be conceived except as the result of the use of force or the threat thereof, which renders it, in principle, incompatible with the international legal order¹⁷. International legal doctrine has consistently regarded territorial integrity as one of the core elements of legal sovereignty, and any infringement thereof as undermining the foundations of the international system based on coexistence among independent units. In this regard, John H. Currie points out that respect for territorial boundaries constitutes a necessary condition for the stability of international relations, and that any tolerance in this domain opens

12 Martti Koskenniemi, *From Apology to Utopia: The Structure of International Legal Argument*. 2nd ed. Cambridge: Cambridge University Press, 2005, pp. 500–520, 570–600.

13 David Kennedy, *Of War and Law*. Princeton, NJ: Princeton University Press, 2006, pp. 5–25, 120–155.

14 Giorgio Agamben, *State of Exception*. Translated by Kevin Attell. Chicago: University of Chicago Press, 2005, pp. 1–18, 35–50.

15 Michael J. Glennon, *Limits of Law, Prerogatives of Power: Interventionism after Kosovo*. New York: Palgrave Macmillan, 2001, pp. 60–95, 130–160.

16 Antony Anghie, *Imperialism, Sovereignty and the Making of International Law*. Cambridge: Cambridge University Press, 2004, pp. 245–272, 300–310.

17 Sharon Korman, *The Right of Conquest: The Acquisition of Territory by Force in International Law and Practice*, Oxford University Press, 1996, pp. 90–105.

the door to the logic of power rather than the logic of law¹⁸. Nevertheless, despite its theoretical clarity, this prohibition has remained, in practice, susceptible to reinterpretation and adaptation, particularly when the interests of great powers are at stake.

Moreover, the prohibition under international law is not limited to the actual use of force, but also extends to the threat of its use. This dimension acquires particular importance in the context of territorial annexation, as the threat often constitutes a preliminary stage through which the threatening state seeks to test legal and political reactions before proceeding to action¹⁹. Conversely, international law suffers from a marked weakness in dealing with threats as legal acts in their own right, as they are often tolerated so long as they do not materialize into actual force. Such tolerance leads to a dangerous normalization of the idea that merely brandishing force does not warrant a decisive legal response²⁰. Going further, Hersch Lauterpacht argues that the separation between threat and action reflects a political rather than a legal inclination, since the threat itself undermines the preventive function of law aimed at averting disputes before their eruption²¹. Accordingly, overlooking threats of force constitutes a preventive erosion of the prohibition rule itself.

Second: The Threat of Territorial Annexation and the Practices of Great Powers

When a threat of annexation emanates from a state possessing significant power, it is not received merely as a potential violation of law, but as a message of implicit renegotiation concerning the content of the rule and the limits of its application. Power here does not confront the rule directly; rather, it surrounds it with a legal and political discourse aimed at diluting its normative force²². This revives the dialectic whereby international law has historically been used as an unequal negotiating framework, within which dominant states impose their own interpretations of rules under the guise of legal legitimacy²³. From this perspective, the threat of annexation does not merely seek a potential territorial gain, but aims to test the elasticity of the legal rule in the face of the will of power.

The absence of any effective legal response to threats of annexation also contributes to the reproduction of what may be termed selective legitimacy. When such threats are not met with clear legal condemnation or institutional measures, the rule is transformed from a binding standard into a mere moral recommendation²⁴. The international system, founded upon sovereign equality, relies on reciprocal expectations regarding respect for rules, and any disruption of these expectations leads to the erosion of general compliance²⁵. Accordingly, the

18 John H. Currie, *Public International Law*, Irwin Law, Canada, 2008, p. 61.

19 James Crawford, *Brownlie's Principles of Public International Law*. 8th ed. Oxford University Press, 2012, pp. 747–750.

20 Ian Brownlie, *Ibid*, pp. 364–368.

21 Hersch Lauterpacht, *The Function of Law in the International Community*, *Ibid*, p. 97.

22 Antony Anghie, *Imperialism, Sovereignty and the Making of International Law*. *Ibid*, pp. 268–275.

23 Juan Pablo Scarfi, *The Hidden History of International Law in the Americas*, *Ibid*, p. 55.

24 Gerry Simpson, *Great Powers and Outlaw States: Unequal Sovereigns in the International Legal Order*. Cambridge: Cambridge University Press, 2004, pp. 230–240.

25 Arianna Whelan, *Reciprocity in Public International Law*, *Ibid*, p. 18.

silence of the international community in the face of threats issued by great powers affects not only the state subject to the threat, but also reshapes the conduct of other states.

Third: The Repercussions of Threats of Annexation on Compliance and the Legitimacy of International Law

International law, given the absence of a centralized enforcement authority, is built upon the idea of voluntary compliance grounded in mutual acceptance. However, the repeated issuance of threats involving the use of force without accountability leads to a transformation of compliance from a general rule into a selective practice²⁶. In this context, international law loses its coherence when its rules shift from general obligations to strategic options deployed according to the interests of the most powerful actors²⁷. Compliance thus becomes a matter of power rather than law. Moreover, the most dangerous consequence of threats of territorial annexation lies not in their potential execution, but in the normalization of the idea that power can serve as a legitimate instrument for redrawing the rules. When international law fails to respond, it does not collapse; rather, it continues to operate as a discursive framework that provides selective legal cover²⁸.

This observation intersects with the argument that legal rules derive their authority from historical practices that remain perpetually open to reconfiguration²⁹. Consequently, the normalization of threats of annexation reintroduces a pre-prohibition logic of force, albeit articulated in contemporary legal language. Hence, the threat of territorial annexation constitutes a genuine test of the function and legitimacy of international law: it exposes the limits of the prohibition of the use of force, highlights the fragility of compliance in the face of power asymmetries, and demonstrates how law may be transformed from an instrument of constraint into a framework of selective legitimization³⁰.

Third Axis: The Impact of the Dominance of Power on the Structure and Legitimacy of International Law

The continued dominance of power within legal discourse and practice leads to a multidimensional crisis comprising three major dimensions: a crisis of compliance, a crisis of equality, and a crisis of normative legitimacy. These crises do not merely threaten the effectiveness of legal rules, but strike at the very foundations of the international legal order as a legal system³¹.

First: The Erosion of Compliance and the Transformation of the Legal Rule

26 Bardo Fassbender, *The Authority of the United Nations and International Legality*, Paris, Pedone, 2003, pp. 25–35.

27 Jan Anne Vos, *The Function of Public International Law*, Ibid, p. 115.

28 Prosper Weil, *International Law in Search of Its Identity*. Collected Courses of the Hague Academy of International Law, vol. 237, 1992, pp. 110–125.

29 Ingo Venzke and Kevin Jon Heller, *Contingency in International Law*, Ibid, p. 21.

30 Antony Anghie, *Imperialism, Sovereignty and the Making of International Law*, Ibid, pp. 245–275.

31 Nico Krisch, *Beyond Constitutionalism: The Pluralist Structure of Postnational Law*, Oxford University Press, 2010, pp. 130–150.

International law, unlike domestic law, operates in the absence of a centralized apparatus of coercion³², which makes voluntary compliance the primary pillar of its effectiveness. Such compliance derives its legitimacy from reciprocal expectations among states, namely that respect for a rule by one party presupposes respect for it by others³³. As Hersch Lauterpacht observes, the effectiveness of international law is contingent upon states' willingness to submit to general rules even when these conflict with their contingent interests³⁴. However, this willingness presupposes a minimum degree of equality in application an assumption that becomes destabilized when rules are subject to selective disregard.

Moreover, the tolerance of the international system toward practices involving threats of force by certain states inevitably leads to a gradual transformation in the nature of compliance. Instead of compliance functioning as a general legal obligation, it becomes a strategic option governed by calculations of power³⁵. In this regard, Jan Anne Vos explains that international law loses its normative structure when its rules are reduced to mere reference points in negotiation, used by powerful states to justify their actions while remaining binding upon weaker states³⁶. Within this framework, the violation of the rule ceases to be an exception and instead becomes part of the logic of its operation.

Second: The Crisis of Sovereign Equality and the Reproduction of Legal Hegemony

Sovereign equality constitutes the cornerstone of the international legal order, as it ensures that all states are subject to the same rules regardless of their material capacities. Yet from its inception, this equality has remained threatened by power asymmetries³⁷. This has led Arianna Whelan to argue that the principle of reciprocity represents the practical expression of sovereign equality, and that its collapse results in the disintegration of the mutual trust upon which the international legal system rests³⁸. Accordingly, the practice of threatening territorial annexation by great powers without accountability reinforces a hierarchical conception of the international order.

Great powers do not always operate through direct violations of rules; more often, they reproduce hegemony through the instrumentalization of law itself. As Juan Pablo Scarfi points out, legal hegemony is achieved through the reinterpretation of rules and general principles in ways that serve the interests of particular actors while preserving the appearance of legality³⁹. Within this framework, international law is transformed from a system designed to limit

32 David Kennedy, *Of War and Law*, Ibid, pp. 120–155.

33 Olivier Corten, *The Law Against War: The Prohibition of the Use of Force in Contemporary International Law*. Paris, Pedone, 2014, pp. 455–470.

34 Hersch Lauterpacht, *The Function of Law in the International Community*, Ibid, p. 139.

35 Alain Pellet, *International Law between Sovereignty and the International Community*. Collected Courses of the Hague Academy of International Law, vol. 266, 1997, pp. 9–25.

36 Jan Anne Vos, *The Function of Public International Law*, Ibid, p. 115.

37 Alain Pellet, *The Principle of the Sovereign Equality of States*. In: *Public International Law*. Paris: LGDJ, 2009, pp. 405–415.

38 Arianna Whelan, *Reciprocity in Public International Law*, Ibid, p. 15.

39 Juan Pablo Scarfi, *The Hidden History of International Law in the Americas*, Ibid, p. 62.

hegemony into an instrument for reproducing it not through direct violence, but through a legal discourse that confers legitimacy upon existing power configurations⁴⁰.

Third: The Crisis of Legitimacy and the Future of International Law

Legitimacy in international law rests upon a normative conception that assumes rules are binding in themselves, irrespective of power balances⁴¹. However, the repeated practices that disregard these rules give rise to what may be termed factual or realist legitimacy, whereby a rule derives its authority from its capacity to adapt to reality rather than from its justice or universality⁴². Hersch Lauterpacht warns that abandoning the normative ambition of international law undermines its foundational idea as law rather than as codified politics⁴³. Consequently, the legitimization of power under the guise of law constitutes an existential threat to the international legal system.

Nevertheless, despite this reality, the erosion of legitimacy does not signify the end of international law, nor should it be viewed as such. Rather, it opens the space for rethinking its foundations. As Ingo Venzke notes, the history of international law is replete with moments in which alternative trajectories were possible, indicating that normative re-foundation remains a viable possibility⁴⁴. Yet such re-foundation cannot occur without explicit acknowledgment of the role of power in shaping law, and without efforts to constrain this role through more effective institutional and judicial mechanisms, and by strengthening the collective character of legitimacy instead of leaving it hostage to the will of the most powerful actors⁴⁵. In this way, it becomes apparent that the impact of threats of territorial annexation extends beyond the specific case examined to affect the very structure of international law itself. The persistence of power dominance leads to the erosion of compliance, the undermining of sovereign equality, and a profound crisis of normative legitimacy⁴⁶. This situation does not represent a historical inevitability, but rather the outcome of political and legal trajectories that remain open to critique and reorientation. The future of international law thus remains contingent upon its capacity to reclaim its function as a genuine constraint on power, rather than as an instrument for its legitimization⁴⁷.

40 Robert Kolb, *The Main Epochs of Modern International Law*. In: *Essays on the History of International Law*. Oxford: Hart Publishing, 2014, pp. 40–55.

41 Pierre-Marie Dupuy, *The International Community between Myth and History*. Paris: Pedone, 1986, pp. 85–100.

42 Jean Combacau, *International Law: A Patchwork or a System?* *Archives of Philosophy of Law*, 1986, pp. 85–100.

43 Hersch Lauterpacht, *The Function of Law in the International Community*, *Ibid*, p. 140.

44 Ingo Venzke and Kevin Jon Heller, *Contingency in International Law*, *Ibid*, p. 21.

45 Thomas M. Franck, *The Power of Legitimacy Among Nations*, *Ibid*, pp. 245–260.

46 James Crawford, *Chance, Order, Change: The Course of International Law*. Leiden: Brill, 2014, pp. 250–270.

47 Alain Pellet, *International Law between Sovereignty and the International Community*, *Ibid*, pp. 200–220.

Conclusion

Power has never been an external element to international law; rather, it has constituted a structural component of its emergence, development, and operation. International law has never been founded upon the negation of power, but upon its regulation and reintegration within a normative framework that claims legitimacy. Yet this regulation has always remained conditioned by prevailing power balances, rendering the relationship between law and power one of permanent tension rather than absolute opposition. As demonstrated throughout this study, this tension manifests in the transformation of law from an instrument for restraining power into a framework that permits its legitimation not through the overt violation of rules, but through their reinterpretation.

This dynamic became particularly evident in our analysis of the practice of threatening territorial annexation as a structural practice that tests the limits of legal rules and their capacity to endure. The analysis revealed that the real danger does not lie in the final act of annexation itself, but in the stage of threat, given its legal function of implicitly renegotiating the content of rules and the scope of their binding force. When threats of force emanate from great powers such as the United States both the world's largest nuclear power and the most dominant actor within the United Nations Security Council they are rarely met with decisive legal responses. Instead, they enter a gray zone that allows for the normalization of coercive discourse and its transformation into an acceptable element of international practice. In such circumstances, law recedes from functioning as a decisive normative standard to operating as a flexible discursive framework.

The continued dominance of such power within the international legal system thus produces a compounded crisis affecting three fundamental pillars: compliance, sovereign equality, and normative legitimacy. Compliance, which constitutes the foundation of the effectiveness of international law, gradually shifts from a general obligation to a selective option governed by power calculations. Sovereign equality, ostensibly a foundational rule, is hollowed out through practices in which rules are not applied on an equal basis. Legitimacy, in turn, is transformed from a normative legitimacy grounded in rules into a factual legitimacy grounded in the capacity to impose *faits accomplis*. Collectively, these outcomes reveal that international law does not collapse in the face of power; rather, it adapts to it in a manner that threatens its core. Instead of violations of rules leading to the delegitimation of practice, the absence of effective legal responses results in the redefinition of the rules themselves. Power thus ceases to be the antithesis of law and becomes part of its internal logic, with hegemony being reproduced not through the denial of law, but through its use.

This reveals that the relationship between law and power is more complex than a simple dichotomy. Despite its erosion, international law retains a latent normative and regulatory function, and its current crisis is not an inevitable fate but the product of historical and political trajectories open to critique and redirection. Rethinking the future of an international law grounded in legitimacy does not necessarily require the mere creation of new rules, but rather a critical examination of the conditions under which legitimacy itself is produced. Legitimacy in a horizontal system cannot rest on discourse alone; it requires a minimum degree of consistency between rule and practice, between normative claims and the actual distribution of

power. Absent such consistency, international law risks becoming a shared language for justifying power asymmetries rather than an instrument for correcting them.

Accordingly, restoring the normative function of international law requires explicit acknowledgment of the role of power in shaping it, and efforts to constrain this role through the strengthening of collective response mechanisms, the activation of legal accountability for threats of force, and the refusal to limit condemnation to the final act alone. It also requires reaffirming the idea of general compliance as a condition for the legitimacy of the system, rather than a mere byproduct of power balances. Ultimately, the threat of territorial annexation emerges not as a mere potential violation of a legal rule, but as a revealing moment of a deeper crisis afflicting international law a crisis marked by its transition from a system aspiring to restrain power into a framework within which power is re-legitimized. The future of international law thus remains suspended upon its capacity to transcend this transformation and to reclaim its meaning as law, rather than as codified politics or legitimized domination.

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