

THE PROBLEM OF THE APPLICATION OF THE LAW IN THE INTERNATIONAL ARENA*

Uluslararası Arenada Hukukun Uygulanması Sorunu

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Abstract

This article examines the structural and normative barriers to the implementation of democracy and the law at the global level through the lens of the natural law approach, ethical universalism, and human rights doctrine. Although the contemporary global order formally recognizes democracy, human freedoms, and the law as universal benchmarks, their practical application remains deeply constrained by sovereignty, power asymmetries, and geopolitical interests. The article argues that this gap between normativity and practice does not stem solely from deficiencies in enforcement mechanisms, but rather reflects a deeper ontological tension between moral universalism and the positivist foundations of international law. While natural law grounds legal validity in moral correctness and ethical rationality, ethical universalism asserts the equal moral worth of all persons, thereby demanding universal standards of political legitimacy. Human rights doctrine institutionalizes these claims within contemporary legal frameworks. Yet, selective application and instrumentalization of these norms undermine their legitimacy and erode the moral foundations of the global legal order. This study argues that overcoming the crisis requires not only institutional reforms but also a radical rethinking of the ethical foundations of international law.

Keywords: Natural law, comparative political institutions, democracy, the rule of law, international law, human rights, global justice

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Özet

Bu makale, doğal hukuk yaklaşımı, etik evrenselcilik ve insan hakları doktrini perspektifinden, küresel düzeyde demokrasi ve hukukun uygulanmasının önündeki yapısal ve normatif engelleri incelemektedir. Çağdaş küresel düzen, demokrasiyi, insan özgürlüklerini ve hukuku evrensel ölçütler olarak resmen tanısa da bunların pratik uygulaması egemenlik, güç eşitsizlikleri ve jeopolitik çıkarlar tarafından derinden kısıtlanmaktadır. Makale, normatiflik ve uygulama arasındaki bu boşluğun yalnızca uygulama mekanizmalarındaki eksikliklerden kaynaklanmadığını, aksine ahlaki evrenselcilik ile uluslararası hukukun pozitivist temelleri arasındaki daha derin bir ontolojik gerilimi yansıttığını savunmaktadır. Doğal hukuk, hukuki geçerliliği ahlaki doğruluk ve etik rasyonellik üzerine kurarken, etik evrenselcilik tüm kişilerin eşit ahlaki değerini savunarak evrensel siyasi meşruiyet standartları talep eder. İnsan hakları doktrini, bu iddiaları çağdaş hukuk çerçeveleri içinde kurumsallaştırır. Ancak, bu normların seçici uygulanması ve araçsallaştırılması, meşruiyetlerini zayıflatmakta ve küresel hukuk düzeninin ahlaki temellerini aşındırmaktadır. Bu çalışma, krizin üstesinden gelmenin yalnızca kurumsal reformları değil, aynı zamanda uluslararası hukukun etik temellerinin kökten yeniden düşünülmesi gerektirdiğini savunmaktadır.

Anahtar Kelimeler: Doğal hukuk, karşılaştırmalı siyasal kurumlar, demokrasi, hukukun üstünlüğü, uluslararası hukuk, insan hakları, küresel adalet

INTRODUCTION

The Romans made the saying, “Where there is society, there is law; where there is law, there is society,” a guiding principle of law.¹ In our time, the search for law, both locally, nationally, and internationally, has inevitably brought back to the forefront the need to investigate the origins of humanity and its tendencies. The reasons for this drive and impulse to grasp the universal in the discipline of law fall within the area of lawyers, social psychologists, and political psychologists. In short, an interdisciplinary approach and methodological examination of law and natural rights will move law beyond the misconception of being merely a normative phenomenon, revealing its connection to the social and human sciences, and contributing to the benefits of human freedoms in the meaning of soft-power politics to the philosophy and psychology of law. This article emphasizes that international law, due to its supranational nature and the principle of equality between states, is independent of states and lack enforcement power.

The law and democracy have been established at both the local and national levels, but they have not been fully integrated into the international system. The

¹ Ö Aslan, Anayasal Devlet İlkesi Bağlamında İnsan Hakları ile Güvenlik Arasındaki Denge (2026) 23 *Ombudsman Akademik* 237.

construction of democracy and the law at the local and national levels arose from economic, social, political, and, consequently, legal needs and was part of the transition from the pre-modern to the modern era. The foundations of the global system date back to the 1648 Treaty of Westphalia. However, philosophical foundations for world peace are based on Kant's political and legal philosophy of the Enlightenment. Kant's idea of universal eternal peace provided historical depth in legal philosophy, emphasizing the historical necessity of equal participation by states and peoples. Kant's idea of Eternal Peace and the conditions within the historical flow led to the association of the United Nations. Furthermore, social and universal agreements on human rights were accelerated by the impact of the two great world wars. However, power-based realpolitik has hindered these efforts, and the imbalance of economic and political power has created a barrier to the realization of global democracy and law.²

The article begins from a central paradox in contemporary international law: universal legal norms enjoy unprecedented rhetorical and formal recognition, yet their application remains radically uneven. Human rights and the rule of law are embedded in the United Nations Charter, major human-rights treaties, regional institutional frameworks, and the legal discourse of international organizations.³ Nevertheless, similar violations produce very different legal and political consequences depending on the identity, strategic position, and institutional power of the actors involved.

The international system has become chaotic due to the impact of globalization and its technical, technological, and speed-driven consequences. Developed countries and permanent members of the UN General Assembly, utilizing the economic, political, and legal power structures resulting from the realpolitik causes and consequences of the past and present, exercise hegemony and dominance over world politics and the universal legal system.⁴

This situation complicates the possibility of a universal legal order emerging and the global boundaries of law and democracy. Furthermore, it renders the applicability of the legal advancements achieved by humankind and civilization throughout their long journey at the individual, local, and national levels. Today, the long-term and painstaking gains made in building democracy and law are in danger of being squandered due to the structure of international practice law. International threats are dragging nations into an insecure world at both local and national levels.

² J Donnelly, *Universal human rights in theory and practice* (2013) (3rd ed, Cornell University Press) 34.

³ Charter of the United Nations (26 June 1945), arts 1, and 2.

⁴ M Koskeniemi, *From apology to utopia: The structure of international legal argument*. (2005) (Cambridge University Press) 25.

This study examines the reasons why universal law, despite being accepted as a norm, cannot be applied in international relations, foreign policy, and the global arena. The study highlights the legal vacuum in the international arena by considering these issues from the perspectives of human rights, democracy, ethics, and natural rights. This study has adopted an approach that prioritizes change and transformation, giving the idea that law is a value to be constantly pursued from a human perspective, that is, a solution that must be continuously sought and is not known in advance. This study aims to reduce the functional divergence between legal and human rights theories and political science's approaches to international care, and to contribute to solutions to this need. From a historically interpretive perspective, the study examines natural rights, human rights, ethics, and international law in an interdisciplinary manner, addressing them in a way that is relevant and consistent with contemporary needs. To answer this research question, the article attempts to consider together three layers that are often confused in the literature. These layers, which are quite intricate, difficult to separate, and complex, can be considered as global law as a decentralized legal order based on sovereign consent; global human rights law as a specialized normative and institutional regime; and law in a philosophical sense as a moral order associated with natural law and universal justice.

I. NATURAL LAW, HUMAN DIGNITY, AND THE MORAL AUTHORITY OF UNIVERSAL NORMS

Natural law remains indispensable because it explains why some lawful norms claim authority beyond state will. Hobbes, Locke, and Kant all contribute distinct pathways from moral reason to legal obligation.⁵ Locke's theory of natural rights remains especially central to the contemporary language of human dignity and individual entitlement.⁶ A contemporary extension of this tradition can be found in John Finnis's reformulation of natural law as a theory of practical reason and fundamental human goodness, which reinforces the claim that legal validity is inextricably linked to moral intelligibility and the common good.⁷ Similarly, Lon Fuller's concept of the "intrinsic morality of law" strengthens the argument that the rule of law itself presupposes procedural principles such as generality, clarity, consistency, and conformity between formal action and promulgated rules, thus linking the rule of law to an intrinsic moral construct rather than a mere state mandate.⁸ Allen Buchanan's work is particularly important from the perspective of contemporary international law theory because, by repositioning

⁵ M Freeman, *Human rights* (2022) John Wiley & Sons.

⁶ M Koskeniemi, *From apology to utopia: The structure of international legal argument*. (2005) (Cambridge University Press) 27.

⁷ J Finnis, *Natural Law and Natural Rights* (2nd edn, OUP 2011) 161–163.

⁸ L Fuller, *The Morality of Law* (revised edn, Yale University Press 1969) 33–94.

the moral foundations of international law from merely interstate peace to justice, legitimacy, and the protection of individuals, he establishes a direct bridge between the logic of natural law and modern debates about universal norms and institutional reform.⁹ The modern significance of this tradition lies in its doctrinal afterlife within jus cogens, inalienable rights, and the prohibition of genocide, torture, and crimes against humanity. The persistence of peremptory norms demonstrates that even a consent-based international legal order cannot fully detach itself from universal moral claims.¹⁰ The question is whether universal norms possess philosophical legitimacy, but why that legitimacy does not reliably translate into equal application.¹¹

The most significant influence of natural law thought on the today's human rights regime is the normative centrality of the notion of human dignity. Human dignity is based on the assumption that the individual is an inalienable, indispensable, and equal being.

The structural features of international law are viewed through two distinct lenses: its classical foundations (the *de jure* framework) and its contemporary practical challenges (the *de facto* reality).

II. ETHICAL UNIVERSALISM UNDER STRUCTURAL AND INSTITUTIONAL CONSTRAINTS

Ethical universalism extends the equal moral worth of persons beyond political borders.¹² This principle underpins the assumption that all individuals have equal moral value. This value should be recognized by law and political systems. Kant's cosmopolitan right and Rawls's law of peoples both sustain the proposition that some obligations attach to persons as human beings rather than merely as citizens.¹³ Kant's cosmopolitan concept of rights suggests that individuals can make moral and legal claims not only as citizens of their states but also as citizens of the world.¹⁴ Ethical universalism argues that moral obligations are not confined to members of an immediate political community but extend toward all humanity. In this sense, it forms the normative basis of modern human rights theory and cosmopolitan political thought. Kant's moral philosophy remains

⁹ A Buchanan, *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law* (OUP 2003) 9.

¹⁰ J Donnelly, *Universal Human Rights in Theory and Practice* (3rd edn, Cornell University Press 2013) 35.

¹¹ J Finnis, *Natural Law and Natural Rights* (2nd edn, Oxford University Press 2011) 104.

¹² I Kant, *Groundwork of the Metaphysics of Morals* (M Gregor tr, Cambridge University Press 1997) 36.

¹³ P Singer, *The Expanding Circle: Ethics, Evolution, and Moral Progress* (Princeton University Press 2011) 41.

¹⁴ I Kant, *Political Writings* (H Reiss ed, HB Nisbet tr, Cambridge University Press 1991) 81.

one of the most influential formulations of ethical universalism.

In the modern era, ethical universalism was reformulated as a political theory most prominently by John Rawls. Rawls argues that a just international order must include respect for fundamental human rights, the equality of peoples, and principles of mutual legitimacy.¹⁵ Although Rawls rejects the universal imposition of liberal democracy, he still treats human rights as minimum moral standards binding upon all reasonable political communities.¹⁶

Harold Koh's transnational legal process theory explains the internalization of international norms through a recurring cycle of interaction, interpretation, and internalization, whereby repeated engagement embeds legal norms into domestic institutions and bureaucratic culture.¹⁷ Beth Simmons' compliance-based approach clarifies that state adherence to international law is often driven by reputational costs, domestic political pressures, and expectations of reciprocity, which together create incentives for sustained compliance.¹⁸ Martha Finnemore and Kathryn Sikkink's norm life-cycle model demonstrates how norms emerge through norm entrepreneurs, spread through a cascade process, and eventually become taken for granted standards of appropriate state behavior.¹⁹ Robert Keohane's neoliberal institutionalist framework argues that international institutions facilitate cooperation under anarchy by reducing transaction costs, increasing transparency, and structuring repeated interactions among states.²⁰ John Mearsheimer's realist critique, however, reminds us that where institutions lack autonomous coercive capacity, relative power and great-power interests remain the decisive determinants of state behavior.²¹

There is a widespread literature on the frequent use of normative principles such as democracy, and the law as discursive tools in international politics. In particular, policies such as humanitarian intervention, export of democracy, and the law are often legitimized in the name of universal moral values; however,

¹⁵ J Rawls, *The Law of Peoples* (Harvard University Press 1999) 22.

¹⁶ J Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (W Rehg tr, MIT Press 1996) 78.

¹⁷ H H Koh, 'Why Do Nations Obey International Law?' (1997) 106 *Yale Law Journal* 2599.

¹⁸ B A Simmons, *Mobilizing for Human Rights: International Law in Domestic Politics* (Cambridge University Press 2009).

¹⁹ M Finnemore and K Sikkink, 'International Norm Dynamics and Political Change' (1998) 52(4) *International Organization* 887.

²⁰ R O Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton University Press 1984).

²¹ J J Mearsheimer, 'The False Promise of International Institutions' (1994/95) 19(3) *International Security* 5.

it is observed that these values are applied selectively and inconsistently in practice. This situation carries the risk of instrumentalizing ethical universalism in practice.²²

According to Koskenniemi²³, international law and normative discourse often oscillate between legitimizing political power relations and representing the utopia of normative ideals. Law, on the one hand, becomes the instrumental and pragmatic language of power politics, while on the other hand, it maintains its claim to represent universal ideals of justice. This dual structure weakens the binding nature and legitimacy of normative principles; it places the international legal order on an internally unstable normative foundation.

In this context, promoting democracy and the rule of law at the international level functions as a strategic tool rather than a moral obligation. While some authoritarian regimes are accepted as legitimate partners in the international system despite violations, the fact that similar violations are satisfied with harsh sanctions in other regions undermines the claim of the universality of normative principles.²⁴

If human rights and the law are applied selectively, subject to political calculations, it becomes increasingly difficult to speak of their universal and binding character.²⁵ In this context, the crisis facing the normative order should be considered not only as a lack of application but also as a profound transformation in the meaning and function of norms.²⁶ Ethical universalism and the doctrine of human rights are confronted with criticisms of cultural relativism.²⁷

III. INSTITUTIONAL FRAGMENTATION OF INTERNATIONAL LAW

At the national policy level, human rights, democracy, and the rule of law reinforce each other. Rights limit the power of the majority and the law guarantees predictability and equal treatment.²⁸

²² D Chandler, *International Statebuilding: The Rise of Post-Liberal Governance* (Routledge 2010) 46.

²³ M Koskenniemi, *From Apology to Utopia: The Structure of International Legal Argument* (Cambridge University Press 2005) 29.

²⁴ J Donnelly, *Universal Human Rights in Theory and Practice* (3rd edn, Cornell University Press 2013) 39.

²⁵ D Chandler, *International Statebuilding: The Rise of Post-Liberal Governance* (Routledge 2010) 47.

²⁶ J Finnis, *Natural Law and Natural Rights* (2nd edn, Oxford University Press 2011) 105.

²⁷ M Weber, *Economy and Society* (G Roth and C Wittich eds, University of California Press 1978) 11.

²⁸ Charter of the United Nations (26 June 1945), arts 1, 2, and 55.

The UN Charter, the ICCPR²⁹, the ECHR³⁰, the Rome Statute³¹, and EU treaty³² structures legally formalize these values, but adjudication and implementation remain subject to state approval.³³ This means that legal consistency exists at the textual level but is not necessarily present at the institutional level of access. Consequently, a systemic disconnect occurs between normative adherence and practical applicability.³⁴

Law, human rights, and democracy are considered three fundamental pillars that complement each other in modern political and legal thought. Human rights express the inherent and inalienable moral and legal claims of the individual. While the law guarantees that political power is limited in accordance with these rights and that legal predictability is ensured. Democracy presupposes that political decision-making processes are based on the principles of equal participation, representation, and public reasoning.³⁵ Taken together, these three principles form the foundation of the modern constitutional state and the contemporary international legal order. The normative structure of this relationship is often mutually constitutive. Without the law, democracy can lead to majoritarian arbitrariness and violations of minority rights; without democracy, the law can transform into a technocratic or authoritarian legal order. Similarly, in international relations, without the law, these can be reduced to formal procedures. Therefore, in contemporary political theory, these three principles are often considered together as a holistic normative framework.³⁶

A similar claim of normative integrity exists at the international level. The UN system, the mechanisms of the Council of Europe define human rights, democracy, and the law as fundamental conditions for international peace, security, and legitimacy. The European Union's founding treaties and enlargement policies embody the claim of normative integrity at the institutional level by

²⁹ International Covenant on Civil and Political Rights (1966).

³⁰ European Convention on Human Rights (1950) Convention for the Protection of Human Rights and Fundamental Freedoms (4 November 1950) art 1.

³¹ Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 90 arts 1 and 17.

³² Consolidated Version of the Treaty on European Union (2016) OJ C202/13, art 2

³³ Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) (ECHR) art 1.

³⁴ See also Rome Statute, art 1 (complementarity structure) and ICCPR art 2 (state duty to respect and ensure rights), illustrating the divergence between textual normativity and jurisdictional reach.

³⁵ J Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (W Rehg tr, MIT Press 1996) 81.

³⁶ R Dworkin, *Justice for Hedgehogs* (Harvard University Press 2011) 21.

placing these three principals at the center of its membership criteria.³⁷

However, the actual institutionalization of this normative integrity at the international level faces serious structural obstacles. The principle of state sovereignty limits external intervention in human rights violations; the global judicial mechanism. The scope of their jurisdiction often depends on the consent of states.³⁸

The law guarantees the application of legal norms free from arbitrary political interference, judicial independence, legal predictability, and equal treatment. Without these principles, human rights risk becoming merely rules broken. Similarly, democracy provides the institutional framework that strengthens the social legitimacy and political accountability of human freedom. However, the institutionalization of the rule of law and democratic principles at the global stage is not as advanced as it is at the national level. The powers of international jurist bodies are limited; their enforcement mechanisms are often subject to political bargaining and power relations. This situation severely limits the effective safeguard and implementation of human rights globally.³⁹

Democracy is presented as a universal norm and criterion of legitimacy in contemporary international discourse. United Nations documents, the normative frameworks of regional organizations, and international development policies define democratic governance as an integral part of the set of universal values, along with human rights and the law.⁴⁰

However, whether democracy has a universal status is debatable. Cultural relativism and post-colonial critiques argue that democracy has been shaped within the historical and cultural context of Western modernity; that different models of legitimacy and governance can be found in different social and political contexts.⁴¹ From this perspective, imposing democracy as a universal norm carries the risk of challenging hegemony and political dominance, both in positive and negative ways.⁴² This normative debate also raises the question of whether democracy can be accepted as a binding norm at the international level. Rawls' approach offers an intermediate position in this context.

³⁷ A Moravcsik, 'The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe' (2000) 54 *International Organization* 217.

³⁸ J Donnelly, *Universal Human Rights in Theory and Practice* (3rd edn, Cornell University Press 2013) 46.

³⁹ A Moravcsik, 'The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe' (2000) 54 *International Organization* 219.

⁴⁰ D Held, *Models of Democracy* (3rd edn, Polity Press 2005) 22.

⁴¹ D Archibugi, 'Principles of Cosmopolitan Democracy' in D Held, D Archibugi and M Köhler (eds), *Re-imagining Political Community* (Cambridge University Press 1998) 198.

⁴² R Dworkin, *Justice for Hedgehogs* (Harvard University Press 2011) 24.

At the international stage, however, the institutionalization of the law is more limited. Global law largely derives its binding nature from treaties and customary rules based upon the consent of states; the powers of international judicial bodies are often limited and discretionary.⁴³ This situation makes it difficult to effectively implement the fundamental principles of law, namely legal predictability and equal application, at the international level. The fact that powerful states can be effectively exempted from international legal obligations or apply them selectively erodes the normative content of the rule of law principle at the international stage. The limited jurisdiction of the ICC, the ability of major powers to avoid recognizing the court's authority, and the fact that international sanctions are often the product of political bargaining are concrete manifestations of this problem.⁴⁴

In this context, the institutionalization of law at the international level requires not only legal reforms but also a normative reinterpretation of the concept of state sovereignty. Within the framework of human rights and universal moral obligations, sovereignty is reconceptualized not as an absolute authority, but as an authority limited by the obligation to uphold the inherent rights of individuals.⁴⁵

IV. POWER ASYMMETRY AND THE SELECTIVE ENFORCEMENT OF UNIVERSAL NORMS

The principle of sovereign equality can mask the fact that states possess radically unequal capacities in interpreting, setting agendas, and shaping implementation outcomes. According to Koskeniemi, international law must simultaneously speak the language of universal justice and operate in a world structured with unequal powers.⁴⁶ Consequently, similar violations can lead to sanctions, silence, investigations, or impunity, depending more on the geopolitical context than on legal seriousness. The fundamental distinction is between equality in law and selectivity in practice.

Although the global political order is formally based on the principle of legal equality of sovereign states, it is in reality characterized by power asymmetries. States, differing greatly in terms of economic, military, diplomatic influence and institutional representation, are not equally effective in the creation and application of international norms. Therefore, this situation significantly shapes

⁴³ M N Shaw, *International Law* (8th edn, Cambridge University Press 2017) 100.

⁴⁴ P Akhavan, 'Beyond Impunity: Can International Criminal Justice Prevent Future Atrocities?' (2001) 95 *American Journal of International Law* (7) 8.

⁴⁵ F. M. Deng, S Kimaro, T Lyons, D Rothchild and IW Zartman, *Sovereignty as Responsibility: Conflict Management in Africa* (Brookings Institution Press 1996) 12.

⁴⁶ M Koskeniemi, *From Apology to Utopia: The Structure of International Legal Argument* (Cambridge University Press 2005) 39.

the actual functioning of global law and the global order.⁴⁷

One of the most striking consequences of this asymmetry is the selective application of legal standards. Sanctions, investigations, and diplomatic pressure are often applied only when consistent with strategic interests, while similar violations elsewhere may be ignored. This discrepancy between legal equality and de facto asymmetry leads to a legitimacy crisis. As Koskeniemi argues, international law is structurally unstable because it simultaneously claims universal justice and functions within a political order shaped by *realpolitik*.⁴⁸ While claiming to represent universal ideals of justice, it also functions as part of a political order determined by power relations. This dual structure constantly erodes the legitimacy and binding nature of the normative order.

The selective application of democracy and the law constitute one of the most serious threats to the legitimacy of the global normative order. When human rights violations are condemned in some contexts but ignored in others, the universality of legal principles is undermined. From a natural law perspective, this represents a breakdown of the unity of law and justice.⁴⁹

The practice of asymmetric application weakens not only the consistency of rules but also the ethical and legitimizing authority of international law. Rules can only be perceived as legitimate and binding insofar as they are applied equally and impartially. The subordination of normative principles to political calculations strengthens criticisms that these principles are instrumentalized and transformed into tools for generating legitimacy.⁵⁰

From a natural law perspective, this constitutes a violation of the principle of law compatible with justice. Law loses its normative legitimacy when it is incompatible with justice and not applied equally; it becomes merely a reflection of power relations and political interests.⁵¹ From the perspective of ethical universalism, the selective application of norms practically invalidates the assumption that all individuals have equal moral value and erodes the ideal of global justice.

Normative erosion means a weakening of trust in the binding nature and moral authority of universal values. This process threatens not only the effectiveness but also the legitimacy of global law and the human freedom regime.⁵²

⁴⁷ M N Shaw, *International Law* (8th edn, Cambridge University Press 2017) 102.

⁴⁸ M Koskeniemi, *From Apology to Utopia: The Structure of International Legal Argument* (Cambridge University Press 2005) 39.

⁴⁹ Ibid 40.

⁵⁰ D Chandler, *International Statebuilding: The Rise of Post-Liberal Governance* (Routledge 2010) 51.

⁵¹ J Finnis, *Natural Law and Natural Rights* (2nd edn, Oxford University Press 2011) 107.

⁵² M Koskeniemi, *From Apology to Utopia: The Structure of International Legal Argument*



The transformations and changes in soft power policies throughout history demonstrate their connection to concepts such as modernization, fashion, and modernity. The cultural and sociological differences of societies have begun to disappear with the process of modernization and globalization. Westernization and modernization processes are attempting to establish dominance over traditional societies.

In today's contemporary politics, the situation is based on legitimacy. The West is experiencing a shift in power and axis as a result of shifts in issues such as migration, refugees, the Middle East, and peace, and is increasingly confronting the world. During and after the Cold War, only radical left and radical right groups possessed an anti-American and anti-Western sociological and social psychological structure, and politics operated in a Western-centric manner, as did the sociology and psychology of politics. However, the West's interventionist cosmopolitanism and universalist imperialism, which began with the Cold War but has continued to increase especially from the 1990s to the present day, has brought about a detachment from the legitimacy axis of power and seems to have become the source of injustices in the world.⁵³

While it is known that all empires and civilizations throughout history have possessed a cosmopolitan character, they have a theoretical and practical need for the cycle of justice or legitimizing metaphors of equality, justice, and freedom.

V. SOVEREIGNTY AS THE STRUCTURAL CONSTRAINT OF GLOBAL RULE OF LAW

Sovereignty is not simply a background principle; it is the central structural mechanism through which universal norms are filtered. The shift from Westphalian autonomy to responsibility-limited sovereignty has undoubtedly transformed the legal imagination of the international order.

Yet even under responsibility-based models, intervention, adjudication, and sanctioning remain constrained by consent, Security Council politics, opt-outs, reservations, and jurisdictional avoidance. The ICC's limited reach and the uneven willingness of major powers to accept jurisdiction remain clear examples. Accordingly, sovereignty should be understood as the principal transmission belt converting universal normativity into differentiated legal consequences.

Sovereignty remains a central pillar of the modern state system originating in the Westphalia.⁵⁴ Yet the post-1945 international legal order, particularly through the UN Charter, the Genocide Convention, and the development of international

(Cambridge University Press 2005) 43.

⁵³ B Hansen, *Unipolarity and World Politics: A Theory and Its Implications* (1st edn, Routledge 2010) 15.

⁵⁴ S D Krasner, *Sovereignty: Organized Hypocrisy* (Princeton University Press 1999) 103.

criminal law, has increasingly limited sovereignty in the name of human-rights protection.⁵⁵ Crimes against humanity, genocide, and war crimes demonstrate that sovereignty can no longer function as an absolute shield.⁵⁶ This principle has long determined the normative architecture of modern international law; state sovereignty has recreated a prominent position as the source and limit of legal obligations.⁵⁷ However, the understanding of sovereignty has undergone significant transformations since the second half of the 20th century. The classical understanding of sovereignty, which held that states had absolute discretion in their domestic affairs, has begun to be normatively limited.⁵⁸ The Genocide Convention, the granting of global legal status to categories such as criminalities against humankind and war crimes, is among the most striking examples of sovereignty being removed as an absolute shield.⁵⁹ This transformation can be considered a normative reorientation that, in line with natural law and ethical universalism perspectives, places the moral value of the individual before state sovereignty. Human rights have been conceptualized as binding universal norms beyond and above the national legal systems of states; this has paved the way for a reinterpretation of sovereignty not as absolute, but as a conditional and responsibility-based form of authority.⁶⁰

The lawfulness of the global political stage is based not only on legal validity or power relations, but also on normative acceptance and claims of moral correctness. In the Weberian sense, legitimacy refers to the acceptance of power as just and binding by those governed.⁶¹ At the global stage, legitimacy depends on whether the decisions of states and international institutions are perceived as normatively just and fair.

In this context, the responsibility-based reinterpretation of sovereignty points to a potential transformation of the international normative order, but it has not been consistently and universally implemented within the existing power relations and institutional structure. This situation shows that the structural tension between normative ideals and political reality continues.⁶²

⁵⁵ Genocide Convention 1948, art II.

⁵⁶ Charter of the United Nations (26 June 1945), arts 1, 2, and 55.

⁵⁷ Convention on the Prevention and Punishment of the Crime of Genocide (1948) 78 UNTS 277.

⁵⁸ J Donnelly, *Universal Human Rights in Theory and Practice* (3rd edn, Cornell University Press 2013) 54.

⁵⁹ Genocide Convention 1948, art 1 and 2.

⁶⁰ F M Deng, S Kimaro, T Lyons, D Rothchild and IW Zartman, *Sovereignty as Responsibility: Conflict Management in Africa* (Brookings Institution Press 1996) 18.

⁶¹ M Weber, *Economy and Society* (G Roth and C Wittich eds, University of California Press 1978) 11.

⁶² M Koskenniemi, *From Apology to Utopia: The Structure of International Legal Argument*

International institutions play a central position on the institutionalization of democracy and the law at the global level.⁶³ The UN, the Council of Europe, the EU, the ICC, and regional human rights courts have developed various normative and institutional mechanisms to protect human rights, promote the law, and support democratic governance.⁶⁴

However, the effectiveness and legitimacy of these institutions are seriously debatable. Since international institutions are often dependent on the consent and contributions of states, they are significantly shaped by the political preferences of powerful states. This weakens the consistency and impartiality of normative decisions; This prevents the global legal order from functioning in agreement with the regulation of the law.⁶⁵

Furthermore, the problem of the democratic legitimacy of international institutions is noteworthy. The fact that decision-making processes often operate in a closed, elitist, and detached manner weakens the normative claims of these institutions.⁶⁶

VI. GLOBAL JUSTICE AND THE MORAL LIMITS OF STATE CENTRIC ORDER

From an ethical universalist perspective, the persistence of selectivity creates not only legal inconsistency but moral injury to the ideal of equal human worth.⁶⁷ Yet international political practice frequently violates this ideal through the protection of powerful-state interests, deepening inequalities, and persistent impunity. Rawls's framework remains important, though cosmopolitan critiques from Pogge deepen the analysis. Pogge's critique of global institutional harms is especially relevant in demonstrating how systemic structures reproduce injustice.⁶⁸

Weberian legitimacy adds an institutional dimension: when legal outcomes are repeatedly perceived as politically contingent, institutional trust declines. This erosion of legitimacy feeds long-term resistance to international adjudication and norm entrepreneurship. In this context, democracy, the law, and human

(Cambridge University Press 2005) 47.

⁶³ A Moravcsik, 'The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe' (2000) 54 *International Organization* 220.

⁶⁴ Z Şakar, *Kozmopolitan Demokrasi Tartışmaları* (Yüksek Lisans Tezi, Karabük Üniversitesi, 2019) 15.

⁶⁵ M N Shaw, *International Law* (8th edn, Cambridge University Press 2017) 107.

⁶⁶ D Archibugi, 'Principles of Cosmopolitan Democracy' in D Held, D Archibugi and M Köhler (eds), *Re-imagining Political Community* (Cambridge University Press 1998) 199.

⁶⁷ P Singer, *The Expanding Circle: Ethics, Evolution, and Moral Progress* (Princeton University Press 2011) 42.

⁶⁸ T Pogge, *World Poverty and Human Rights* (2nd edn, Polity Press 2008) 51.

rights are considered institutional expressions of global justice.

Thus, in international political practice, this normative ideal is seriously violated. The protection of the interests of powerful states at the cost of the freedoms of weaker states and people, the deepening of global inequalities, and the impunity for serious human rights violations are considered normative injustices from an ethical universalist perspective.⁶⁹ This situation leads to the idea of global justice losing its meaning in practice and weakening the moral authority of the normative order.⁷⁰

Rawls' theory of international justice offers an important normative framework in this context. Rawls argues that a just international order should be established on the codes of equivalency of peoples, mutual respect, and respect for fundamental human rights.⁷¹ However, Rawls' approach has been criticized for not adequately addressing the structural causes of global inequalities and for offering a state-centric framework rather than an individual-centric cosmopolitan understanding of justice.⁷²

Nevertheless, normative critique has an indispensable function in questioning the moral legitimacy of political practices, making alternative normative order designs visible, and preparing the intellectual ground for the transformation of global law.⁷³ The institutionalization of democracy and the law at the global stage can only be achieved through a deeper intellectual and political transformation that requires rethinking the normative foundations of international politics, not just through technical legal reforms.

Debates on global democracy and cosmopolitan democracy have reopened the question of how democratic legitimacy and legal accountability may be institutionalized beyond the state. Following Held, individuals must increasingly be recognized as subjects of a wider global political order. Stronger treaty monitoring, enhanced reporting duties, compulsory jurisdiction in narrowly defined core crimes, peer review compliance procedures, and greater insulation of judicial bodies from geopolitical bargaining all represent plausible reforms. Held's global democracy framework also suggests participation-based legitimacy reforms, including greater transparency, procedural access, and multi-level

⁶⁹ J Donnelly, *Universal Human Rights in Theory and Practice* (3rd edn, Cornell University Press 2013) 55.

⁷⁰ P Singer, *The Expanding Circle: Ethics, Evolution, and Moral Progress* (Princeton University Press 2011) 44.

⁷¹ M Koskeniemi, *From Apology to Utopia: The Structure of International Legal Argument* (Cambridge University Press 2005) 47.

⁷² T Pogge, *World Poverty and Human Rights* (2nd edn, Polity Press 2008) 51.

⁷³ J Donnelly, *Universal Human Rights in Theory and Practice* (3rd edn, Cornell University Press 2013) 57.

accountability mechanisms.⁷⁴ These reforms do not abolish sovereignty, but they can reduce the degree to which power asymmetry determines norm application. The increasing influence of global governance structures, the lack of legitimacy in these structures is considered a serious normative problem.

According to Held, global democracy requires that individuals be recognized not only as members of their national political communities but also as subjects of the global political order.⁷⁵ Furthermore, the extent to which global democracy models can take cultural diversity and political pluralism into account is also a matter of debate.⁷⁶ While this goal seems difficult to achieve in the short term, it can be considered an indispensable part of the ideal of a global ruling founded on international justice and human dignity.

CONCLUSION

The article's main conclusion is that universal norms fail in practice not because they lack moral legitimacy, but because a decentralized sovereignty-based order structurally mediates their application. The fundamental problem, therefore, is the gap between enduring power and norm; that is, the distance between universal legal aspirations and selective institutional realization. Narrowing this gap requires philosophical clarity, doctrinal certainty, institutional redesign, and a realistic acknowledgment of how power continues to shape the law. As long as law, transparency, equality, and accountability remain tied to political power, the international legal order will continue to struggle with legitimacy deficits. However, a progressive reinterpretation of sovereignty and the strengthening of judicial mechanisms can contribute to a more coherent and legitimate global order based on human dignity.

This study comprehensively analyzes the normative and structural problems engaged in the application of democracy and the law in the global political arena from the perspectives of natural law, ethical universalism, and human rights doctrine. The basis thesis of the study is that this failure does not stem solely from institutional deficiencies or a lack of political will; rather, it stems from the normative-positive law tension inherent in the existential structure of the global system and the decisive position of power relations.

From a political perspective, there is a clear need for a new understanding of internationalism in economic contexts and political spheres. The complex, realistic nature of foreign policies, in the face of challenges from the West

⁷⁴ D Held, 'Principles of Cosmopolitan Order' (2005) 39 *Anales de la Catedra Francisco Suarez* 153.

⁷⁵ *Ibid.*, 154.

⁷⁶ R Tuck, *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant* (Oxford University Press 1999) 8.

and other civilizations, and the chaotic structure of an unjust international system, necessitates a new vision of the world that utilizes economic, technical, technological, and military power, alongside social capital and the historical dynamism of the past. The institutionalization of universal law is a necessity. A prerequisite for the application of law at local and national levels is an international institutionalization based on human rights.

The fundamental reason for the establishment of democracy within local and national frameworks was the limitation and distribution of power. In this context, the separation and limitation of power among branches of government emerged through constitutionalism, social contracts, and institutionalization. While nation-states were limited in terms of individual rights and freedoms, efforts to limit nation-states in the international arena were based on normative and theoretical grounds, failing to translate into practical political action. As legality, transparency, and accountability become the foundation of international law, not only in theory but also in practice, a similar situation will permeate local and national politics. Therefore, limiting power in the international arena will promote local, national, and international democracy and the law at all levels.

This approach interprets the inability to institutionalize human rights, the law, and democracy as universal and binding norms in the transnational law system as a weakening of the moral foundations of law. Ethical universalism, on the other hand, starting from the assumption that all individuals have equal moral value, demands the restructuring of international politics according to an individual-centered understanding of justice.

In this context, the problem of implementing democracy and the law at the international level should be addressed not only as a practical and institutional issue, but also as a profound philosophical and ethical problem concerning the normative foundations of the transnational order. The solution to this problem may be possible through new theoretical approaches and institutional experiences aimed at overcoming the structural tension between the positivist foundations of international law, natural law, and ethical universalism. Even if steps taken in this direction yield limited and fragile results in the short or long term, these can contribute to the construction of a more just, consistent, and legitimate global political order based on human dignity.

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