

LAW

Rule of Law
Theory of Law
Kinds of International Agreement

RULE OF LAW

The "Rule of Law" means that all components of society, including the public bureaucracy, operate under the same legal constraints and with the same legal rights, thus enabling peaceful and predictable political and economic participation. Strengthening the rule of law requires that the legal system exist not only on paper, but also in practice. Written laws must also be implemented, enforced, understood, accepted, and used. In the great transitions currently taking place in all societies moving from authoritarianism to greater levels of public participation, the stability of the legal system plays a key role in establishing the foundations of sound government. But enhancing the rule of law surely does not entail creating merely a more powerful government. In virtually all authoritarian systems the executive branch is excessively centralized, given to top-down policy making, and rarely accountable to the public for its actions. Consequently, enhancing the rule of law cannot merely mean increasing the capacity of government; it must mean increasing the quality of governance.

THEORY OF LAW

International Law

International donor community has come to play an increasingly important role with in the pressures of globalization. The institutions of the donor community, principally the World Bank, the International Monetary Fund, the regional development banks, and national foreign aid agencies, act in accordance with the principles and standards of international law.

International Law and Domestic Law

Law is a principle governing action or procedure. Law implies the existence of a sovereign authority and the obligation of obedience of all subject to that authority. A body of law functions within a jurisdiction. Jurisdiction refers to the limits or territory within which the law applies. We distinguish between domestic or national law (also sometimes referred to as "municipal law") and international law. We also distinguish between two major branches of legal systems, Roman law and Common law. Roman (also called Continental or statue law) is based on a codified body of principles of law. Common law, or English Common law, is based in part on codified statues and in part on judicial interpretation of previous practice.

Most international law is created by and for states. The United Nations Charter has attached to it the Statue of the International Court of Justice. Article 38 of the Statue of the International Court of Justice defines the sources of international law as:

1. International conventions (treaties), whether general or particular, establishing rules expressly recognized by the contesting states;
2. International custom, as evidence of a general practice accepted as law;
3. The general principles of law recognized by civilized nations;
4. Subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of the rules of law.

Customary law refers to practices that have been widely accepted as binding by states over time. The jurist and legal scholar Hugo Grotius (1583-1645) is attributed with the first articulation of the principles of customary law in his treatise *On the Law of War and Peace*. He noted the existence of common practices whose routine observance by governments led to their acceptance as required behavior in relations among states. For instance, the practice of diplomatic immunity was typically granted to the representatives of host governments. This was to avoid the practice of killing the messenger.

The states are the actors in the system of international law. The system assumes:

1. States are juridically equal;
2. states enjoy full sovereignty;
3. enjoy territorial integrity and political independence;
4. exercise the rights and responsibilities of other states in the international community.

MUTUAL ASSISTANCE

Conventional Westphalian concepts of the international system posit states as the primary actors in the dynamics of international high politics. Three types of international treaty arrangements are particularly important: non-aggression pacts and mutual assistance treaties, and collective security agreements.

Non-aggression agreements pledge to avoid conflict. Mutual assistance agreements pledge one state to help another state in the event of aggression from a third party. Collective security arrangements, while they vary in form and scope, typically obligate states to act in certain ways with respect to other states.

Collective Security Agreement

Collective Security is a system aspiring to the maintenance of peace, in which participants agree that any "breach of the peace is to be declared to be of concern to all the participating states," and will result in a collective response. A collective security arrangement is a club in which all the members of the club agree not to violate the territorial integrity of the other members. The first universal collective security agreement came about at the founding of the League of Nations by the Paris Peace Conference of 1919. The League of Nations'

goals included disarmament; preventing war through collective security; settling disputes between countries through negotiation diplomacy; and improving global welfare. The United Nations was founded in 1945 by 51 states as a "global association of governments facilitating co-operation in international law, international security, economic development, and social equity."

Non-Aggression Treaty

The Molotov-Ribbentrop Pact, also known as the Hitler-Stalin Pact or Ribbentrop-Molotov Pact or Nazi-Soviet Pact and formally known as the Treaty of Nonaggression between Germany and the Union of Soviet Socialist Republics, was a non-aggression treaty between the German Third Reich and the Soviet Union. It was signed in Moscow on August 23, 1939, by the Soviet foreign minister Vyacheslav Molotov and the German foreign minister Joachim von Ribbentrop. The mutual non-aggression treaty lasted until Operation Barbarossa of June 22, 1941, when Nazi Germany invaded the Soviet Union.

Mutual Assistance Treaty

A mutual assistance treaty is a group of states that agree to act collectively to prevent and respond to an attack on any member state by states outside of the group, particularly by a competing bloc of states. For some 40 years NATO and the Warsaw Treaty Organization were based on counter-focused mutual assistance treaties.

North Atlantic Treaty Organization

NATO is a mutual assistance agreement. The NATO treaty was signed April 4, 1949. It provided that "the Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all; and ...each of them...will assist the...attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force..."

NATO Expansion

During the July 1997 NATO meeting in Madrid, three Central European states (the Czech Republic, Hungary and Poland) were formally invited to start accession negotiations with the aim of joining the Alliance in 1999. Javier Solana, then the NATO' Secretary General, observed "NATO has come out of the Madrid Summit stronger and with a new sense of purpose. The expansion of the military alliance into Eastern Europe would thereby ease European security concerns by filling the existing power vacuum and consolidate democracy in the former communist bloc countries. The historic goal of a peaceful and whole Europe would seem to be within reach."

George F. Kennan who argued that NATO enlargement was the most fateful error of American policy in the post Cold-war era voiced a realist critique of the expansion of NATO. He argued that the alliance's expansion would hinder the development of Russian

democracy by creating new dividing lines in Europe. He claimed that the effectiveness and credibility of NATO would suffer in view of new policy commitments.

The public, whose interest in foreign policy has waned since the crumbling of the Berlin Wall and of communist governments almost everywhere, has paid little attention -- even though the expansion of NATO essentially committed the United States to fight if need be for Prague and Budapest precisely as it is now committed to defending cities like Berlin and Paris.

PARTIES: United States, Belgium, Bulgaria, Canada, Czech Republic, Denmark, Estonia, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Turkey, United Kingdom

Rio Treaty

A treaty signed September 2, 1947, which provides that an armed attack against any American State "shall be considered as an attack against all the American States and...each one...undertakes to assist in meeting the attack..."

PARTIES: United States, Argentina, Bahamas, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Trinidad & Tobago, Uruguay, Venezuela