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Prof.ssa Loredana Sferrazza

Prof. Angelo Baccarella

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7) [International law for international relations](#)

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Democracy in the Gulf

Let's take it slowly

The Gulf monarchs dislike the Arab awakening but are having to react to it
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ON SEPTEMBER 25th Saudi Arabia's King Abdullah issued an historic decree granting women the right to vote. Two days later a judge in the port of Jeddah issued his own verdict on women's rights, sentencing a 19-year-old, Shayma Jastania, to ten lashes for the sin of driving a car. The contrast between the two events, embarrassing to reformers in the arch-conservative kingdom, reflected a wider disjuncture (even though the king, a few days later, granted clemency to the errant driver). Across the Arab world, citizens are busy empowering themselves to speed up the wheels of change. But in the oil-rich monarchies of the Gulf, the pace remains as ponderous and reverse-prone as ever.

Just now it happens to be election season in four of the six countries of the Gulf Co-operation Council. State-controlled media, bolstered by slick Western public-relations firms retained by princely rulers, tout such exercises as pageants of modernising progress. Universally, however, the Gulf's voting franchises remain restricted, and the bodies to which elections are held wield little real power.

The least cheering vote came, unsurprisingly, in Bahrain. The island kingdom has often held elections under universal suffrage, albeit for a toothless parliament, but earlier this year government forces, helped by the Saudi and other Gulf armies, brutally snuffed out a burgeoning protest movement demanding fuller democracy, leaving at least 35 dead and arresting more than 1,400. The continuing crackdown has targeted mainly Shias, who make up two-thirds of Bahrain's people but have long been ruled by a Sunni family, the Khalifas. The vote on September 24th, a by-election for 18 seats in the 40-seat parliament vacated by a mass resignation of opposition MPs, was widely boycotted. With voter turnout estimated at a meagre 17%, and

Bahrain's legislature now set to be packed with loyalist Sunni deputies, the poll merely exposed the dangerous polarisation between sects, and between the Khalifas and their subjects.

Elections on the same day in the United Arab Emirates (UAE), a placid federation of princedoms, proved far less controversial, and for good reason. This was only the second time that Emirati citizens, whose numbers are dwarfed by expatriate workers, have voted in the country's 40-year history. Not only does the 40-seat Federal National Council, for which they were voting, have only advisory powers. Half its members are directly appointed by the UAE's seven emirs who also, via an opaque vetting process, choose the voters.

True, this time the electoral college swelled to 130,000, or 12% of the citizenry, from just 7,000 anointed voters in 2007. And one of the 20 winners was a woman. But with only 28% of the lucky voters bothering to exercise their privilege, the event was hardly a triumph of progress.

The prospects for democracy look slightly brighter in next-door Oman, which goes to the polls on October 15th. Nearly a third of the country's 1.6m native-born citizens are registered to vote, and some 1,000 candidates, including 70 women, plan to compete for the Shura Council's 84 seats. After riots earlier this year the Omani ruler, Sultan Qaboos bin Said, promised to expand the powers of the council, whose role has been purely advisory since its creation in 1981. A proposed new law could see the council, convened jointly with the all-appointed State Council, become a proper legislature. Again these are small steps, but at least they reflect a dialogue between rulers and ruled.

King Abdullah of Saudi Arabia's dramatic granting of women's voting rights appeared to be in the same spirit. Yet the harsh *Sharia* court ruling, penalising a woman for sitting at the wheel of a car although she holds an international licence, despite the fact that no formal law bans Saudi women from driving, seemed to question the king's magnanimity. So far, the only elections Saudis have been allowed to vote in have been for half the seats on town councils.

In any event, women were not allowed to vote in local elections on September 29th, which generated little enthusiasm. Women will have to wait four years for the next round. In the interim, some could be chosen for the Shura Council, an all-appointed proto-parliament. Its chairman says preparations are already under way for separate entrances, quarters and screened seating areas for female members (who will, of course, have to be chauffeured there).



Yet even such grudging moves towards highly circumscribed democracy keep being undermined by shifts in the other direction. Bahrain's rulers stand out, in critics' eyes, as singularly mean, beating protesters, handing out life sentences and firing some 2,300 people from government jobs. But their fellow royals seem to be getting unduly nervous too. In early September Saudi Arabia imposed still more restrictive rules on journalists, who in theory now need state approval to engage with any foreign institution, such as attending an embassy party. The UAE is trying five dissidents on charges of insulting the rulers. Even Kuwait, once a haven of relative tolerance, now tries citizens for thought crimes: in recent months some 40 people have been charged for sending insulting messages via Twitter.

International Law for International Relations, Başak Çali, ed.,
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The relationship between international law and international relations

International relations is interested in much broader phenomena than just the legal regulation of international affairs. International relations is interested in understanding how and why states and other actors on the international plane behave in the ways that they do, the nature of the international system, and the role of international actors, processes and discourses. International relations is more interested in what does in fact happen under certain conditions and how we can explain interactions and behaviour in international relations (although some international scholars may also propose how international relations should be conducted and what international institutions we should have).

Given this difference in focus in approaching international affairs, three preliminary questions are helpful to think about the relationship between international law and international relations.

These are:

1. Are international relations and international law two separate disciplines or are they different approaches within a single discipline?
2. How does the knowledge produced in international relations and international law overlap, conflict, and co-depend?
3. At what point and in what way does international law enter into international relations research?

Are international relations and international law two separate disciplines?

International relations and international law are two separate, but overlapping disciplines. Disciplines are a collection of a number of ground rules on how a subject matter is identified and there are invariably disagreements among the members of a discipline about what these ground rules are. How distinct the two disciplines are, therefore, depends on points of view within each discipline. International law and international relations have common concerns as well as key differences. There is not, however, a straightforward answer or definitive list of differences and similarities. Students of both disciplines disagree about the proper boundaries between international law and international relations.

Let's start with the most basic similarity. International relations and international law are concerned with international phenomena. They share a curiosity about how we may identify international phenomena and how such phenomena relate to or affect domestic affairs and how domestic affairs inform international phenomena.

Consider the following questions:

- How does a new state enter into the international system?
- What guides the behaviour of actors in the everyday life of international relations?
- Why do international organizations exist?
- Why have states created and signed up to international treaties in virtually every area of public policy?
- What is the significance of one or a collection of powerful states disregarding some established rule of international law?
- What are the differences between the powers and capacities of states and non- state actors in international law?

These questions are all about international phenomena. They focus on the significance, the role, the added value, and the future of international organizations, international cooperation and international regulation in international relations. It is easy to see why these questions are of interest to both disciplines. International relations seeks to understand and explain existing arrangements and institutions at the international level. It also aims to identify patterns or generalizations about behaviour in international relations. Normative branches of international relations aim to identify what duties, rights, and obligations states have towards each other and towards individuals or groups and what principles should govern international institutions and interactions. It is also necessary for international law to understand these because they raise important questions of appropriate boundaries of international regulation. That the two disciplines share an interest in the same phenomena does not necessarily mean, however, that the interest is shared for the same reasons. Nor does it mean that the two disciplines attempt to address the phenomena in the same way (Ku et al. 2001).

International relations and international law can differ or overlap in their motivations for asking the questions above. They can also go about answering them in different, or overlapping ways. International relations and international law can be interested in the same phenomena for different reasons. They could also be interested in the same phenomena for the same reasons. Each of these reveals a different type of disciplinary relationship. The more divergent the reasons for interest in international phenomena, the more separate the two disciplines become. Conversely, the more similar the questions about the same phenomenon become, the more the disciplines overlap. Whether the two disciplines are distinct or not is dependent on how the research questions are framed.

There are two central independent variables that determine the nature of the relationship between international relations and international law.

1. Reasons motivating the asking of a question.
2. Reasons motivating the selection of procedures in order to answer a question.

The former indicates differences in terms of *approaches*. The latter indicates differences in *methodology*. Differences in approach and methodology are key to understanding how different outcomes in terms of findings, views, and opinions are formulated with respect to the same subject matter. Approaches and methodologies, in this respect, are broader concepts than the concept of discipline. There will be, however, a core concentration of similar approaches and methodologies in every discipline, which will give the discipline its dominant colour. For example, realism in international relations and legal positivism in international law have been regarded as the most dominant approaches for a long time.

Table 1.1 Approach, methodology, discipline

Approach	Methodology	Discipline
Ideas intended to deal with a subject	Justification of procedures to answer a question within a subject	A branch of knowledge that hosts a number of approaches and methodologies

Proponents of different approaches and methodologies in each discipline have strong disagreements about how the discipline should proceed to enhance its understanding of the subject matter. That is why it is equally possible to have strong alliances between the disciplines of international relations and international law as well as a complete lack of interest in what goes on in the neighbouring discipline.

We can now start to understand what interdisciplinary disagreements are usually about. They can be between: any approach in international relations against another approach in international law or any methodology in international relations against another methodology in international law. This also tells us that it is not necessary that the relationship between two disciplines will always be about disagreements. Provided that the approaches or the methodologies overlap, the relationship can be one of mutual interest in the same type of questions for the same kind of reasons. For example, students of international relations who study the conditions of international cooperation may be thought as international lawyers in disguise or vice versa.

What is the most dominant disciplinary characteristic of international relations and international law? From what we have said so far, it is clear that not everyone will agree on a particular answer to this question. We may still find a distinction that most will agree on: international law is primarily interested in the *regulation* of international affairs. International relations is more interested in *understanding and explaining* them. The legal element has a more significant weight in international law, while in international relations it is the political element that takes centre stage. International lawyers ask when we have international law. International relations scholars ask how international actors behave.

Table 1.2 Interdisciplinary engagement

Scenario 1	Scenario 2	Scenario 3
Two separate approaches, some separate methodologies	Two separate approaches, but a single methodology	Two similar approaches with similar methodologies
Very different disciplines, hard to have anything common	Different disciplines, some common points	Full overlap between research agendas

These dominant characteristics guide which questions are viewed as worthy of higher or priority interest. For the international lawyer, for example, the central question is: what are the rules and principles that govern international relations and how do we identify such rules? For the international relations scholar,

Table 1.3 Disciplinary differences

International relations	International law
Understanding and explaining international affairs	Regulation of international affairs

more important is: what makes states support a particular norm in international relations and how do we know when support for that norm erodes or increases? We can see that these questions tackle the same type of issues, but have different concerns, approaches, and methodologies in mind. This may not, however, look as straightforward after further scrutiny. We can equally say that international relations students are interested in understanding international affairs and its politics because they are interested in how best to regulate it. They hope to propose prescriptions based on the general patterns of behaviour and structural generalizations. Conversely, international law cannot successfully regulate international affairs without understanding how a particular norm came to be accepted in the first place. Each discipline needs to inform the other in order to be

Table 1.4 Disciplinary convergences

International relations	International law
Understanding and explaining international affairs with the aim of its better regulation	Regulation of international affairs based on a grounded understanding of current international affairs

successful. This shows us that international law and international relations can ask the same questions for different reasons. In conclusion, it is possible to offer a qualified answer to the question of whether international law and international relations are two separate disciplines. Easy or simplistic answers will not do. The answer has more to do with identifying shared *attitudes* to international affairs in each discipline.

Final verdict: separate or the same?

1. International relations and international law are concerned with the same kind of phenomena: relationships, processes, institutions, events that take place in the international sphere.
2. Whether they are two separate disciplines or not is sensitive to the different approaches and methodologies that are hosted in these disciplines.
3. The two are not necessarily in fundamental conflict with each other in terms of positions they hold about international affairs. They may or may not be in conflict.
4. They are dependent on each other given that understanding or explaining international affairs may take its cue from the very regulation of these affairs and vice versa.
5. If there is an overlap in the approaches and methodologies, it is not possible to differentiate between the two.
6. The relationship between international relations and international law is generally understood in terms of the positions of the most dominant approach in both disciplines. This does not mean, however, that there is only one way of conceiving the relationship.

FURTHER READING

What is international law? pp 5-7

The textbook definition that international law is the law that regulates relations between states gives us two important aspects of a definition of international law, namely that it is concerned with interstate regulation and that international law is different from other types of law. *Regulation* is an important general characteristic of all law. Law is *prescriptive* and it commands how all people ought to act in their relations with others. It also enables us to predict how actors may behave towards us. However, this definition is misleading in so far as international law can regulate other forms of relationships that states agree to regulate.

International law is different from other law such as *domestic law* and *conflict of laws* (or *private international law*). The former regulates relationships between natural and legal persons within a single country and the law that is applied is determined by the legislation of that country. The latter regulates relationships between natural and legal persons that happen to be in more than one country, such as relationships between companies in two different countries or between parents from two different countries over the custody of children. In such cases, courts have to decide the law of which country should be applied. It is for this reason that international law is sometimes also called *public international law*. This is to emphasize that its focus is interstate relations and not relations between private entities and domestic laws of any country cannot tell us what international laws are. Private entities, such as companies or individuals, however, can be *subjects* of international law. (...)

An essential element of the definition of international law, therefore, is not its subject matter or the type of entities it regulates, but that it is law that is made by states collectively. No single state acting unilaterally can make international law; neither can a collection of corporations or individuals. In other words, the authority to make international law rests with states acting together. International organizations, individuals, and corporations can all become subjects of international law and have limited powers and international personality recognized under international law. They can also help clarify what international law is by interpreting it or they can appear in international courts. But they cannot make international law. This means that there are no predetermined limits as to what areas international law does or should regulate. This can only be determined through collective agreement amongst states.