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consideration of law's role in politics can produce concepts that are more robust intellectually and more helpful to empirical research.

Quasi-States, Dual Regimes, and Neoclassical Theory: International Jurisprudence and the Third World (1987)
by Robert H. Jackson

Decolonization in parts of the Third World and particularly Africa has resulted in the emergence of numerous "quasi-states," which are independent largely by international courtesy. They exist by virtue of an external right of self-determination – negative sovereignty – without yet demonstrating much internal capacity for effective and civil government – positive sovereignty. They therefore disclose a new dual international civil regime in which two standards of statehood now coexist: the traditional empirical standard of the North and a new juridical standard of the South. The biases in the constitutive rules of the sovereignty game today and for the first time in modern international history arguably favor the weak. If international theory is to account for this novel situation, it must acknowledge the possibility that morality and legality can, in certain circumstances, be independent of power in international relations. This suggests that contemporary international theory must accommodate not only Machiavellian realism and the sociological discourse of power but also Grotian rationalism and the jurisprudential idiom of law.

Which Norms Matter? Revisiting the "Failure" of Internationalism (1997)
by Jeffrey W. Legro

Scholars tend to believe either that norms are relatively inconsequential or that they are powerful determinants of international politics. Yet the former view overlooks important effects that norms can have, while the latter inadequately specifies which norms matter, the ways in which the norms have an impact, and the magnitude of norm influence relative to other factors. Three different norms on the use of force from the interwar period varied in their influence during World War II. The variation in state adherence to these norms is best explained by the cultures of national military organizations that mediated the influence of the international rules. This analysis highlights the challenge and importance of examining the relative effects of the often cross-cutting prescriptions imbedded in different types of social collectivities.

The Territorial Integrity Norm: International Boundaries and the Use of Force (2001)
by Mark W. Zacher

Scholars and observers of the international system often comment on the decreasing importance of international boundaries as a result of the growth of international economic and social exchanges, economic liberalization, and international regimes. They generally fail to note, however, that coercive territorial revisionism has markedly declined over the past half century – a phenomenon that indicates that in certain ways states attach greater importance to boundaries in our present era. In this article I first trace states' beliefs and practices concerning the use of force to alter boundaries from the birth of the Westphalian order in the seventeenth century through the end of World War II. I then focus on the increasing acceptance of the norm against coercive territorial revisionism since 1945. Finally, I analyze those instrumental and ideational factors that have influenced the strengthening of the norm among both Western and developing countries.

Why Are Some International Agreements Informal? (1991)
by Charles Lipson

Informal agreements are the most common form of international cooperation and the least studied. Ranging from simple oral deals to detailed executive agreements, they permit states to conclude profitable bargains without the formality of treaties. They differ from treaties in more than just a procedural sense. Treaties are designed, by long-standing convention, to raise the credibility of promises by staking national reputation on their adherence. Informal agreements have a more ambiguous status and are useful for precisely that reason. They are chosen to avoid formal and visible national pledges, to avoid the political obstacles of ratification, to reach agreements quickly and quietly, and to provide flexibility for subsequent modification or even renunciation. They differ from formal agreements not because their substance is less important (the Cuban missile crisis was solved by informal agreement) but because the underlying promises are less visible and more equivocal. The prevalence of such informal devices thus reveals not only the possibilities of international cooperation but also the practical obstacles and the institutional limits to endogenous enforcement.

The Politics of Dispute Settlement Design: Explaining Legalism in Regional Trade Pacts (2000)
by James McCall Smith

Dispute settlement mechanisms in international trade vary dramatically from one agreement to another. Some mechanisms are highly legalistic, with standing tribunals that resemble national courts in their powers and procedures. Others are diplomatic, requiring only that the disputing countries make a good-faith effort to resolve their differences through consultations. In this article I seek to account for the tremendous variation in institutional design across a set of more than sixty post-1957 regional trade pacts. In contrast to accounts that emphasize the transaction costs of collective action or the functional requirements of deep integration, I find that the level of legalism in each agreement is strongly related to the level of economic asymmetry, in interaction with the proposed depth of liberalization, among member countries.

Loosening the Ties that Bind: A Learning Model of Agreement Flexibility (2001)
by Barbara Koremenos

How can states credibly make and keep agreements when they are uncertain about the distributional implications of their cooperation? They can do so by incorporating the proper degree of flexibility into their agreements. I develop a formal model in which an agreement characterized by uncertainty may be renegotiated to incorporate new information. The uncertainty is related to the division of gains under the agreement, with the parties resolving this uncertainty over time as they gain experience with the agreement. The greater the agreement uncertainty, the more likely states will want to limit the duration of the agreement and incorporate renegotiation. Working against renegotiation is noise – that is, variation in outcomes not resulting from the agreement. The greater the noise, the more difficult it is to learn how an agreement is actually working; hence, incorporating limited duration and renegotiation provisions becomes less valuable. In a detailed case study, I demonstrate that the form of uncertainty in my model corresponds to that experienced by the parties to the Nuclear Non-proliferation Treaty, who adopted the solution my model predicts.

Driving with the Rearview Mirror: On the Rational Science of Institutional Design (2001)
by Alexander Wendt

The Rational Design project is impressive on its own terms. However, it does not address other approaches relevant to the design of international institutions. To facilitate comparison I survey two "contrast spaces" around it. The first shares the project's central question – What explains institutional design? – but addresses alternative explanations of two types: rival explanations and explanations complementary but deeper in the causal chain. The second contrast begins with a different question: What kind of knowledge is needed to design institutions in the real world? Asking this question reveals epistemological differences between positive social science and institutional design that can be traced to different orientations toward time. Making institutions is about the future and has an intrinsic normative element. Explaining institutions is about the past and does not necessarily have this normative dimension. To avoid "driving with the rearview mirror" we need two additional kinds of knowledge beyond that developed in this volume: knowledge about institutional effectiveness and knowledge about what values to pursue. As such, the problem of institutional design is a fruitful site for developing a broader and more practical conception of social science that integrates normative and positive concerns.

The Dynamics of International Law: The Interaction of Normative and Operating Systems (2003)
by Paul F. Diehl, Charlotte Ku, and Daniel Zamora

This article describes the basic components of the operating and normative systems as a conceptual framework for analyzing and understanding international law. There are many theoretical questions that follow from the framework that embodies a normative and operating system. We briefly outline one of those in this article, namely how the operating system changes. In doing so, we seek to address the puzzle of why operating system changes do not always respond to alterations in the normative sphere. A general theoretical argument focuses on four conditions. We argue that the operating system only responds to normative changes when response is "necessary" (stemming from incompatibility, ineffectiveness, or insufficiency) for giving the norm effect and when the change is roughly coterminous with a dramatic change in the political environment (that is,

"political shock"). We also argue, however, that opposition from leading states and domestic political factors might serve to block or limit such operating system change. These arguments are illustrated by reference to three areas of the operating system as they concern the norm against genocide.

Europe Before the Court: A Political Theory of Legal Integration (1993)
by Anne-Marie Slaughter [Burley] and Walter Mattli

The European Court of Justice has been the dark horse of European integration, quietly transforming the Treaty of Rome into a European Community (EC) constitution and steadily increasing the impact and scope of EC law. While legal scholars have tended to take the Court's power for granted, political scientists have overlooked it entirely. This article develops a first-stage theory of community law and politics that marries the insights of legal scholars with a theoretical framework developed by political scientists. Neofunctionalism, the theory that dominated regional integration studies in the 1960s, offers a set of independent variables that convincingly and parsimoniously explain the process of legal integration in the EC. Just as neofunctionalism predicts, the principal forces behind that process are supranational and subnational actors pursuing their own self-interests within a politically insulated sphere. Its distinctive features include a widening of the ambit of successive legal decisions according to a functional logic, a gradual shift in the expectations of both government institutions and private actors participating in the legal system, and the strategic subordination of immediate individual interests of member states to postulated collective interests over the long term. Law functions as a mask for politics, precisely the role neofunctionalists originally forecast for economics. Paradoxically, however, the success of legal institutions in performing that function rests on their self-conscious preservation of the autonomy of law.

The European Court of Justice, National Governments, and Legal Integration in the European Union (1998)
by Geoffrey Garrett, R. Daniel Kelemen, and Heiner Schulz

We develop a game theoretic model of the conditions under which the European Court of Justice can be expected to take "adverse judgments"

against European Union member governments and when the governments are likely to abide by these decisions. The model generates three hypotheses. First, the greater the clarity of EU case law precedent, the lesser the likelihood that the Court will tailor its decisions to the anticipated reactions of member governments. Second, the greater the domestic costs of an ECJ ruling to a litigant government, the lesser the likelihood that the litigant government will abide by it (and hence the lesser the likelihood that the Court will make such a ruling). Third, the greater the activism of the ECJ and the larger the number of member governments adversely affected by it, the greater the likelihood that responses by litigant governments will move from individual noncompliance to coordinated retaliation through new legislation or treaty revisions. These hypotheses are tested against three broad lines of case law central to ECJ jurisprudence: bans on agricultural imports, application of principles of equal treatment of the sexes to occupational pensions, and state liability for violation of EU law. The empirical analysis supports our view that though influenced by legal precedent, the ECJ also takes into account the anticipated reactions of member governments.

Scraps of Paper? Agreements and the Durability of Peace (2003)
by Virginia Page Fortna

In the aftermath of war, what determines whether peace lasts or fighting resumes, and what can be done to foster durable peace? Drawing on theories of cooperation, I argue that belligerents can overcome the obstacles to peace by implementing measures that alter incentives, reduce uncertainty about intentions, and manage accidents. A counterargument suggests that agreements are epiphenomenal, merely reflecting the underlying probability of war resumption. I test hypotheses about the durability of peace using hazard analysis. Controlling for factors (including the decisiveness of victory, the cost of war, relative capabilities, and others) that affect the baseline prospects for peace, I find that stronger agreements enhance the durability of peace. In particular, measures such as the creation of demilitarized zones, explicit third-party guarantees, peacekeeping, and joint commissions for dispute resolution affect the duration of peace. Agreements are not merely scraps of paper; rather, their content matters in the construction of peace that lasts.

In the Shadow of Law or Power? Consensus-Based Bargaining and Outcomes in the GATT/WTO (2002)
by Richard H. Steinberg

This article explains how consensus decision making has operated in practice in the General Agreement on Tariffs and Trade/World Trade Organization (GATT/WTO). When GATT/WTO bargaining is law-based, consensus outcomes are Pareto-improving and roughly symmetrical. When bargaining is power-based, states bring to bear instruments of power that are extrinsic to rules, invisibly weighting the process and generating consensus outcomes that are asymmetrical and may not be Pareto-improving. Empirical analysis shows that although trade rounds have been launched through law-based bargaining, hard law is generated when a round is closed, and rounds have been closed through power-based bargaining. Agenda setting has taken place in the shadow of that power and has been dominated by the European Community and the United States. The decision-making rules have been maintained because they help generate information used by powerful states in the agenda-setting process. Consensus decision making at the GATT/WTO is organized hypocrisy, allowing adherence to the instrumental reality of asymmetrical power and the sovereign equality principle upon which consensus decision making is purportedly based.

The Legalization of International Monetary Affairs (2000)
by Beth A. Simmons

For the first time in history, international monetary relations were institutionalized after World War II as a set of legal obligations. The Articles of Agreement that formed the International Monetary Fund contain international legal obligations of the rules of good conduct for IMF members. Members were required to maintain a par value for their currency (until 1977), to use a single unified exchange-rate system, and to keep their current account free from restrictions. In this article I explore why governments committed themselves to these rules and the conditions under which they complied with their commitments. The evidence suggests that governments tended to make and keep commitments if other countries in their region did so as well. Governments also complied with their international legal commitments if the regime placed a high value on the rule of law domestically. One inference is that reputational concerns have a lot to do with international legal commitments and

compliance. Countries that have invested in a strong reputation for protecting property rights are more reluctant to see it jeopardized by international law violations. Violation is more likely, however, in the face of widespread noncompliance, suggesting that compliance behavior should be understood in its regional context.

Constructing an Atrocities Regime: The Politics of War Crimes Tribunals (2001)
by Christopher Rudolph

From the notorious "killing fields" of Cambodia to programs of "ethnic cleansing" in the former Yugoslavia and Rwanda, the grizzly nature of ethnic and identity-centered conflict incites horror, outrage, and a human desire for justice. While the drive to humanize warfare can be traced to the writing of Hugo Grotius, current efforts to establish an atrocities regime are unparalleled in modern history. Combining approaches in international relations theory and international law, I examine the role political factors (norms, power and interests, institutions) and legal factors (precedent and procedure) play in the development of an atrocities regime. International tribunals have convicted generally low-level war criminals in both Rwanda and the former Yugoslavia, but they have had much more limited success in achieving their more expansive goals – deterring atrocities and fostering national reconciliation in regions fraught with ethnic violence. This analysis reveals additional institutional modifications needed to construct a more effective regime and highlights the importance of placing this new regime within a comprehensive international strategy of conflict management.

The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe (2000)
by Andrew Moravcsik

Most formal international human rights regimes establish international committees and courts that hold governments accountable to their own citizens for purely internal activities. Why would governments establish arrangements so invasive of domestic sovereignty? Two views dominate the literature. "Realist" theories assert that the most powerful democracies coerce or entice weaker countries to accept norms; "ideational" theories maintain that transnational processes of diffusion and persuasion socialize less-democratic governments to accept norms. Drawing on theories of

rational delegation, I propose and test a third "republican liberal" view: Governments delegate self-interestedly to combat future threats to domestic democratic governance. Thus it is not mature and powerful democracies, but new and less-established democracies that will most strongly favor mandatory and enforceable human rights obligations. I test this proposition in the case of the European Convention on Human Rights – the most successful system of formal international human rights guarantees in the world today. The historical record of its founding – national positions, negotiating tactics, and confidential deliberations – confirms the republican liberal explanation. My claim that governments will sacrifice sovereignty to international regimes in order to dampen domestic political uncertainty and "lock in" more credible policies is then generalized theoretically and applied to other human rights regimes, coordination of conservative reaction, and international trade and monetary policy.

Regime Design Matters: Intentional Oil Pollution and Treaty Compliance (1994)
by Ronald B. Mitchell

Whether a treaty elicits compliance from governments or nonstate actors depends upon identifiable characteristics of the regime's compliance systems. Within the international regime controlling intentional oil pollution, a provision requiring tanker owners to install specified equipment produced dramatically higher levels of compliance than a provision requiring tanker operators to limit their discharges. Since both provisions entailed strong economic incentives for violation and regulated the same countries over the same time period, the variance in compliance clearly can be attributed to different features of the two subregimes. The equipment requirements' success stemmed from establishing an integrated compliance system that increased transparency, provided for potent and credible sanctions, reduced implementation costs to governments by building on existing infrastructures, and prevented violations rather than merely deterring them.

The Regime Complex for Plant Genetic Resources (2004)
by Kal Raustiala and David G. Victor

This article examines the implications of the rising density of international institutions. Despite the rapid proliferation of institutions, scholars continue to embrace the assumption that individual regimes

are decomposable from others. We contend that an increasingly common phenomenon is the "regime complex": a collective of partially overlapping and nonhierarchical regimes. The evolution of regime complexes reflects the influence of legalization on world politics. Regime complexes are laden with legal inconsistencies because the rules in one regime are rarely coordinated closely with overlapping rules in related regimes. Negotiators often attempt to avoid glaring inconsistencies by adopting broad rules that allow for multiple interpretations. In turn, solutions refined through implementation of these rules focus later rounds of negotiation and legalization. We explore these processes using the issue of plant genetic resources (PGR). Over the last century, states have created property rights in these resources in a Demsetzian process: As new technologies and ideas have made PGR far more valuable, actors have mobilized and clashed over the creation of property rights that allow the appropriation of that value.