



## Causes and cures XI: International law approaches



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### ABSTRACT

The past several years have been a landmark moment for violence prevention, with renewed attention on the part of many international agencies, but especially the United Nations, with its adoption of the *2030 Agenda for Sustainable Development*. The latter invites the world community to collaborate in an inclusive, long-ranging vision for the future, highlighting our interdependence and collective responsibility for humanity's future. A growing awareness that preventing violence does not just reduce death and disability but promotes creativity, economic growth, and general well-being is at the heart of this “movement”. An integration not only of the major disciplines but of various practical approaches is timely, and for this to occur, we require a broader overview of our existing societal structures. In this context, the remainder of this fifteen article series modeled after a Global Health Studies course entitled, “Violence: Causes and Cures,” will review the mechanisms that society has used in an attempt to stem violence. This article, the eleventh of the series, will briefly cover the history, successes, and challenges of international law. The attempt to internationally arbitrate fields such as human rights, war crimes, international security, the regulation of armed conflict, etc., marks the start of a global effort to reduce violence. A commonly accepted and fair legal forum based on universally agreed upon precedents, international customs and conventions, and effective enforcement would allow for constructive implementation.

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We are living through a landmark moment for violence prevention. The past few years, especially, have seen growing attention to the problem of violence and the need for multilateral collaborations to solve it. In December 2014, for example, the World Health Organization, the United Nations Office on Drugs and Crime, and the United Nations Development Programme (WHO, UNODC, & UNDP, 2014) joined forces to detail the efforts and successes of 133 countries to reduce interpersonal violence in *The Global Status Report on Violence Prevention 2014*. It is the first major report on violence since the influential *World Report on Violence and Health* (Krug, Dahlberg, Mercy, Zwi, & Lozano, 2002) consolidated all the existing epidemiology and science on violence.

Meanwhile, the 67th World Health Assembly (WHA, 2014) adopted a resolution addressing violence, bringing particularly to focus women, children, and other vulnerable members of the populations subject to systematic structural and institutional violence. Furthermore, *Global Study on Homicide 2013: Trends, Contexts, Data* (UNODC, 2014), *Hidden in Plain Sight: A Statistical Analysis of Violence against Children* (United Nations Children's Fund [UNICEF], 2014a), *Ending Violence against Children: Six Strategies for Action* (UNICEF, 2014b), *Preventing Suicide: A Global Imperative* (WHO, 2014), and *Preventing Youth Violence: Taking Action and Generating Evidence* (WHO, 2015), all added to a global awareness of some major forms of violence. Most notably, in September 2015, the United Nations General Assembly adopted the *2030 Agenda for Sustainable Development* (United Nations [UN], 2015), addressing the need to “significantly reduce all forms of violence and related

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death rates everywhere” (Goal 16), for the aspiration of sustained peace and sustainable development.

Other plans of action followed suit, such as by the WHO director-general (WHO, 2016a); the 69th World Health Assembly (WHA, 2016); and the Global Partnership to End Violence against Children (WHO, 2016b), reflecting the initiative of WHO member states, national and international organizations, and civil society actors. In this context, more than ever, violence studies need to become a field of its own right, with university-level instruction capable of unifying its enlarging scholarship base as well as proposing common principles on which multiple sectors can collaborate. Meanwhile, ongoing worldwide events only augment the urgency for understanding and acting on this important topic.

Over several issues, *Aggression and Violent Behavior* has graciously published a lecture series that has been implemented at Yale University through the Global Health Studies course, “Violence: Causes and Cures.” As one of the first comprehensive courses on understanding and preventing violence, it attempts a systematic integration. This article consists of the eleventh of this fifteen article series, which carries the following order:

1. Introduction: Toward a New Definition
2. The Biology of Violence
3. The Psychology of Violence
4. The Symbolism of Violence
5. The Sociology and Anthropology of Violence
6. The Political Science and Economics of Violence
7. Structural Violence
8. Environmental Violence
9. Consequences of Violence
10. Criminal Justice Approaches (in this issue)
11. International Law Approaches (in this issue)
12. Public Health Approaches
13. Global Medicine Approaches
14. Nonviolence Approaches
15. Synthesis and Integration

## 1. Introduction

If international law is, in some ways, at the vanishing point of law, the law of war is, perhaps even more conspicuously, at the vanishing point of international law.

Hersch Lauterpacht, *Private Law Sources and Analogies of International Law* (1970)

Law is a system of rules and regulations that social institutions enforce to mediate relations at the individual, community, and international level, and can be an important means of addressing violence (Robertson, 2013). A collective legislature or a single legislator can create law through processes that jurisdictions have agreed upon, resulting in statutes, while private individuals can create legally binding contracts that hold up at court. Constitutions, written or tacit, may encode rights that form the foundation of laws. *International law*, which is the focus of this article, is a body of rules established by custom or treaty and recognized by nations as binding in their relations with one another (Swartz, 2013). It serves as a framework for the practice of stable and organized international relations, through treaties and conventions, and is primarily applicable to countries rather than individuals (Slomanson, 2011).

The international law approach is the second among the methods of intervention we are covering in this “Causes and Cures of Violence” series. It is becoming increasingly relevant as states have become more and more dependent on one another. This is attributable to the emergence and intensification of problems that reach far beyond national borders (Sztucki, 1974): matters of security, terrorism, human rights

abuses, and armed conflict, as well as the mutual interdependence and vulnerability wrought by economic globalization, the environmental crisis, and the growing movements of people across state boundaries (Samantha & John, 2010). These appear to have outrun the problem-solving capacity of any individual states to deal with adequately, and have consequently necessitated the need for interdependence and by extension regulations.

International law is not without its challenges. States still determine much of international law pertaining to the use of violence, as they also exercise jurisdiction over prosecuting crimes within its territory or by its own citizens (Schiff, 2008). International legal structures and norms govern the growing aspects of international life, but whether they can effectively prevent violence at that level, or merely perpetuate the violence that occurs (Lee, 2016), remains to be seen. Whatever the future holds, international law has developed into a complex field that has the potential to enable the global community to enact order in increasingly large domains.

## 2. Historical background

A simple treaty or agreement between nations constitutes international law, and under this broad definition, international law has existed for thousands of years since city-states around Mesopotamia mutually agreed to keep boundaries (Shaw, 2008). During the sixteenth century, the proliferation of international practices, customs, rules, and treaties created a need for scholars to compile these instruments into organized treatises (Anand, 1982). In 1625, Dutch jurist Hugo Grotius wrote *De Jure Belli Ac Pacis Libri Tres*, the first codified approach to international law. Based on the legal status of war and on normative principles, *De Jure* holds it axiomatic that promises must be kept, and that harming another requires restitution (Grotius, 1625). In more recent years, post-World War institutions such as the United Nations (UN) and its judicial arm, the International Court of Justice (ICJ), have joined with institutions such as the International Criminal Court (ICC) and human rights treaty bodies (Samantha & John, 2010). The recognition of international law as a valid corpus of rules has been a gradual process (Jennings & Watts, 1992), developing through the consensus of states that recognize that they must respect and globally protect certain “values” amounting to valid legal norms (Lissitzyn, 1964).

The ICJ has defined the sources of modern international law as the following: international conventions; international customs; general principles of law under agreement by civilized nations; a supplementary source where applicable; and the teachings and decisions of the most qualified national publicists to determine legal rulings (Statute of the ICJ, 1945). Customary international law is law derived from universally held customs, or implied law as practiced out of legal obligation. Conventional international law can take almost any form upon international agreement. Traditionally, international law considered only states, but the modern international legal system also includes individuals and international organizations (Shaw, 2010).

Global actions to prevent interpersonal violence through legal approaches are a relatively new phenomenon. In the 1990s, the UN led several commissions that created important documents such as the *Declaration on Elimination of Violence against Women* in 1993 (Qureshi, 2013). After publishing its *World Report* (Krug, Mercy, Dalhberg, & Zwi 2002), the World Health Organization (WHO) convened major world players in the field through the Violence Prevention Alliance in order to respond to much of what it identified in the report (Ahmad, 2004). In a Global Campaign for Violence Prevention, the Alliance continues to meet every year, and every other year with WHO Member States to hold Milestones Meetings, with an informal influence on policy and law (Lee, Leckman, & Mbawambo, 2014). There are many other campaigns at the international level, but as their importance grows, they are called to give greater sensitivity to local contexts (Zwi, 2004). Also notable is the *Journal of Peace Research*, which since 1964 has provided

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