

LEGAL STUDIES: *WORLD ORDER*

Discuss the role of law reform in processing and maintaining world order.

The role of law reform is to encourage and enforce nation states to conform to a set of legal rules deemed appropriate and necessary by the international community. The first piece of law reform to establish a need for world peace and world order was the Treaty of Westphalia (1648), which sought an end to the major wars occurring at the time in Rome and the war between Spain and the Dutch Republic. Courts and tribunals, such as the ICC and the ICJ, as well as intergovernmental organisations, such as the UN, are also examples of law reform designed to process and maintain world order.

Law reform plays a major role in processing and maintaining world order. The Geneva Conventions first and foremost defined the rules regarding the conduct of hostilities, a concept crucial to world order. The first three Geneva Conventions were concerned with the protection and treatment of the sick and wounded, as well as prisoners of war. The fourth convention was implemented to protect all civilians during time of war, stating that they should not be part of the hostilities as a means of maintaining world order. The Geneva Conventions are just one example of law reform designed to process and maintain world order.

Courts such as the ICC and ICJ were also created due to law reform. The ICJ, which was established under the UN Charter along with the UN after World War II, gave nation-states (party to the UN) a platform to settle disputes with other nations. This allowed nations to settle their issues through dialogue before it escalated into armed conflict, a prime example of how law reform is able to maintain world order. However, it also has its limits, as evident in an article posted under a week ago by Chinese news agency, Xinhua, in which the ICJ could not resolve a dispute between Japan and South Korea as South Korea was unwilling to appear (“S.Korea rejects Japan’s proposal to take territorial dispute to int’l court”). This shows the limitations of such a court and the overriding power of state sovereignty.

The ICC is another important international court, which was created by the Rome Statute. 121 nation states have ratified and agreed to a court with universal jurisdiction (with 153 signatories) that will look to prosecute major violators of human rights and world peace across the international borders. The effectiveness of the court can be put into question however, as in its 11 years of operation, only one international criminal has been prosecuted: that of Thomas Lubanga. Despite this, the premise of a court with universal jurisdiction is a great example of law reform building towards a more stable world order.

A concept that is always interrelated with world order is the concept of state sovereignty, which defines that each nation state has the power to govern itself in any which way they choose, without external influence. This of course poses a problem to the concept of world order, where nations must ‘surrender’ some power to other bodies, such as the UN and the ICC, in order for the concept to work effectively. State sovereignty ensures that the concept of world order (and law reform) will always be effective to a certain extent. An example of this is evident in a Sydney Morning Herald article published earlier this year, in which Syria rejected an Arab league and UN initiative to end the bloodshed in its country (“Syria rejects push for peacekeepers”). “Syria rejects decisions that are a...violation of its national sovereignty”, a clear representation of state sovereignty overriding the concept of world order and global cooperation.

The nuclear threat is an important issue concerning world order, with the role of law reform being essential in ensuring the threat is reduced. The Nuclear Non-Proliferation Treaty (1968) attempted to resolve the threat of nuclear weapons, with a gradual reduction of nuclear weapons and an agreement to not produce any more such weapons. The treaty has 182 signatories and 151 ratifications, which can be considered a success simply in terms of the number of parties to the

treaty. However, North Korea is one example of a nation that has used its state sovereignty to disregard the treaty altogether. In 2003, North Korea withdrew from the NPT, and in 2006, detonated a nuclear bomb. After further pressure from the UNSC in 2007, it agreed to abandon its nuclear weapons program, yet this has not occurred. North Korea is not the only nation that poses a nuclear threat. An article published by the Sydney Morning Herald in 2010 stated that the United States issued a 'nuclear threat' to Iran ("Iran slams Obama for 'nuclear threat'"). Combined with their unwillingness to sign the NPT, the US poses a major concern for global security despite the attempts of the law. While law reform was effective in establishing a treaty to reduce the threat of nuclear weapons, state sovereignty can always override this, meaning law reform is not always effective in processing and maintaining world order.

The United Nations Security Council is the largest and most effective intergovernmental organisation in regards to world order. The UNSC utilises functions and powers given unto it by other nation-states and the UN Charter to attempt to resolve issues of world order. One such issue would be the crisis of Timor-Leste, in which the UNSC played a major role. The UNSC adopted Resolution 1246 which established UNAMET, in which 280 civilian police were deployed to act as advisors to the Indonesian police in East Timor. This mission ultimately failed as none of the police were armed. The UNSC then adopted Resolution 1264, creating INTERFET. This Australian-led peacekeeping force was deployed within days of the resolution, followed by humanitarian aid. Australian forces were able to negotiate and achieve Indonesia's removal, which was a resounding success for world order and global cooperation, as well as the UN. Furthermore, the UNSC can instate sanctions against non-cooperating nation-states and deploy peacekeeping forces, and is also responsible for the principle of R2P. The UNSC is a major component of law reform in processing and maintaining world order.

It is evident that law reforms, from treaties to resolutions to covenants, all attempt to process and maintain world order. In particular, the UNSC conducts large-scale efforts to ensure world order. However, law reform does not always succeed in international law. In regards to Timor-Leste, the UNSC had multiple failed attempts before finally succeeding in its mission. State sovereignty always presents an obstacle for international law, as seen with North Korea/US and the nuclear threat. International law is very complex, yet law reform does benefit in the processing and maintaining of world order.