

## “Strategic Chaos”: The Role of International Law

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**Abstract:** This paper sets out the reasons why the role of international law is important in different aspects, and goes on to explain certain elements regarding chaos in international law, conflicts, human rights, terrorism and global environment. It will also introduce the United Nations system with a focus on the opinion of the most highly publicists in international law. As international law seeks to displace chaos, its objective nature and binding force imposes by a higher authority, create stability and certainty in social relations and impose order where such relations are in danger of breaking down. The implication is that many of the topics that receive the most attention in international law – the laws of war, territorial limits, arms agreements, and so on – are unlikely to be affected by international law. On the other hand, issues such as international economic matters, environmental issues, and so on, can more easily be affected by international law. This suggests that the international law should focus greater attention on the latter subjects and less on the former.

**Keywords:** Chaos Theory, World Politics, International Law, Order, Conflict, Human Rights, Global Environment.

### INTRODUCTION

Now that science is looking, chaos seems to be everywhere. A flag snaps back forth in the wind. A dripping faucet flight, the behavior of cars clustering on an expressway, the behavior of oil flowing in underground pipes [1].

Anarchy is a dangerous thing in a world susceptible to terrorism [2].

The phrase “strategic chaos” was introduced by the Washington *Post* to deal with a particular pattern of American domestic politics [3]. It could just as easily been applied to the international political condition on a macro level which is our concern, covering such areas as nuclear arms proliferation challenged by the Democratic Republic of Korea and Iran, deteriorating governance and resulting reduction in legitimate authority and capability such as in Afghanistan, Iraq, Somalia, Syria and Yemen. There is what appears to be the non-ending Israeli-Palestinian dispute, and the looming peaceful arrangement leading on to conflict resolution between the Government of Colombia and the FARC (Fuerzas Armadas Revolucionarias de Colombia [The Revolutionary Armed Forces of Colombia]). Each of these issues deserves a modicum of attention. We have selected terrorism, the global environment, cyber security, and human rights as the subjects worthy of highlighting.

The lack of an overly stable international order can be and is thought of here as a chaotic condition, but one that can be overcome with an effective application

of international law, preferably by cooperation, but if necessary coercion (forcibly or through economic forces—read market incentives). The global political system is marked by a wide array of governing systems from liberal democracies to authoritarian regimes to despotic tyrants. The need for some type of standardized instrument to gauge political progress for the welfare of the world’s many, we believe, is in the recognition of the integrity, functionality, rationality and usefulness of international law.

### MATERIAL AND METHOD

We intend to propose a theoretical basis for global dysfunction and describe what we believe to be a sensible approach, not to completely rectify the conditions of instability, but to move the world’s civilizations to a complete appreciation of an overall stable process of evolution [4]. We rely heavily on relevant scholarly literature to augment our perspective and present a reasonable statement to support our contention.

### Chaos Theory

The theory of chaos is technically a means of explaining the operation of “non-stable, highly dynamic, nonlinear and sensitive systems” [5]. We approach the matter in a far more simplistic manner. Consider the flight of a fly for example. Regardless of the erratic pattern of its flight, it does begin at point A and ultimately ends up at its goal, presumably at point B. But importantly as a subject of social science research, it does reflect on a real life concern for future

human developments [6]. Chaos may be disheartening, but it is not necessarily destructive [7].

In another sense, chaos theory can best be described as a form of zen, stressing as it does the acceptance of tensions in life and physical processes. "Chaos is a science of process rather than state, of becoming rather than being. . . Believers in chaos . . . feel that they are turning back a trend in science toward reductionism . . . They believe that they are looking for the whole" [8].

At the turn of the 21st century, there appear to be enormous challenges facing an international legal posture. At stake is the construction of a fully-fledged world legal order and, ultimately, nothing less than securing the future of humanity as a whole. If the world community fails to provide efficient and fair rules and structures for dealing with the numerous problems facing it, the consequences will indeed be dire. As one may know the world without rules would be a cruel one where nothing would count, only winning. And winning is not all. The term "chaos" does not denote a precisely defined and classifiable situation but serves rather as a broad label for a phenomenon which can be interpreted in various ways. We will now consider the concepts associated with this term from a legal perspective.

Three elements can be said to characterize the phenomenon of "chaos" from the legal point of view: Firstly, there is the geographical and territorial aspect, namely the fact that "chaos" is essentially associated with internal and endogenous problems. Secondly, there is the political aspect, namely the internal collapse of law and order. The emphasis here is on the total or near total breakdown of structures guaranteeing law and order. Thirdly, there is the functional aspect, namely the absence of bodies or agents capable, on the one hand of representing the state at the international level and, on the other of being influenced by the outside world.

From a legal point of view, it could be said that "chaos" is a state of utter confusion or disorder; a total lack of organization or order. If we look at the phenomenon of chaos from the global perspective of international order and especially from the point of view of international law, it is interesting to observe that the states concerned are, in practice, but again not necessarily insurmountable conditions, not simply left to their fate. On the contrary, chaos anywhere in the world is seen as a matter for the international community, since the international system as a whole is considered to be endangered if one of its members is seen to be no longer functioning. From an international law perspective then there are a number of remarks on the general trends now apparent, focusing on the theme "chaos."

### **The World in Chaos**

In an attempt to explain the nature of the dynamic movement of global events, Kiel provides a

theoretical context to wit, that "a lack of coordination between the internal organization and its environment inhibits the organization's capacity to import sufficient energy from its environment for sustenance, incremental adjustment in a rapidly changing environment may produce excessive entropy and decrease an organization's alignment with its environment" [9]. Considering still further, the esteemed diplomat Henry Kissinger opined: "The world is in chaos. Fundamental upheavals are occurring in many parts of the world simultaneously, most of which are governed by disparate principles" [10]. Additionally, "[t]he risk of conflict will increase due to diverging interests among major powers, an expanding terror threat, continued instability in weak states, and the spread of lethal, disruptive technologies." Bottom line: "These trends will converge at an unprecedented pace to make governing and cooperation harder" [11].

### **Enter International Law**

International law admittedly is in and of itself insufficient to serve as a guarantor of the reversal or abatement of adversity unless of course, it serves as a useful means for nations' strategic policymakers to achieve their goals. Or as an alternative, a government with liberal democratic leadership attempts to expand upon its normative agenda behind which is the political ability to bend the will of adversaries to moderate their more aggressive stance.

There is, indeed, an increased role for international law as the number of armed and violent conflicts and strategic interests, or states projecting power have increased and so has there been an increase in the number of juridical institutions to reverse the level of confrontation or even resolve disputes [12]. The United Nations, of course, stands out as an obvious international political actor charged and authorized to enter the fray with tools to allay the fears and assuage the contenders, but it simply cannot or does not do the job as effectively as required. At the heart of the matter is the role of international law in providing the impetus for managing these issues of competing interests.

The behavioral spectrum for adherence to international legal norms runs from totally accepted cooperation to some form of coercion. At some point in this range is consensus, a type of agreement that satisfies one party's goals partially to totally satisfying another party's achievement of acceptance of a norm. Much of the law making instruments witnessed in the recent past have emerged from international organizations, particularly the United Nations. But "even if noncooperation has its roots in the missing ability and willingness of states to cooperate, the law can set incentives in a way which fosters disaster preventing behavior of states (and other actors)" [13, 40].

As is widely recognized, international law consists of “rules and principles of general application dealing with the conduct of [S]tates and of international organizations and with their relations inter se, as well as with some of their relations with persons, whether natural or juridical.” [14]. Rules of international law can be established in three main ways: (1) by international, formal agreement, usually between States (i.e., countries), (2) in the form of international custom, and (3) by derivation of principles common to major world legal systems [15].

International law may not be an automatic panacea to eliminate either chaotic conditions or the often resulting armed conflict. But international law certainly does not advocate, advance, or posit policies that promote the conditions it seeks to obliterate. By its very nature, international law operates on the globe with states interacting at numerous intersections of interest that can be brought into compliance with a set of norms in reverse order of serious benefit on the basis of coercion, negotiation, mutual benefit or evolutionary acceptance. Consensus development does not necessarily rely upon implicit agreement, but can come about simply as the emergence of simultaneous appreciation of self-interest. In any case, there should not be an expectation of conflict abatement. Rather, dislocation of civil order that extends beyond national borders can only reach, we have previously argued, a level of expectation securing an objective that is at least at a level that is above that of maximum loss [16].

Huntington's "The Clash of Civilization?" article was almost unique among works of global chaos theory because it focused more on prescription, on outlining the desirable policy response to the new wave of culture conflicts, than it did etiology, on explaining its causes or dynamics [17]. What he points out in a comparative political exposition is the forced infusion of a governing system established in a particular cultural setting, in a historic period, onto the remaining portion of the globe. To a great extent thereupon the difference in the perceptive outlook on political dynamics has resulted in conflict, not only because of attitudes but also because of the real distribution of available resources.

The development of international law—both its rules and its institutions—is inevitably shaped by international political events. From the end of World War II until the 1990s, most events that threatened international peace and security were connected to the Cold War between the Soviet Union and its allies and the U.S.-led Western alliance. The UN Security Council was unable to function as intended, because resolutions proposed by one side were likely to be vetoed by the other. The bipolar system of alliances prompted the development of regional organizations—e.g., the Warsaw Pact organized by the Soviet Union and the North Atlantic Treaty Organization (NATO) established

by the United States—and encouraged the proliferation of conflicts on the peripheries of the two blocs, including in Korea, Vietnam, and Germany, but specifically Berlin. Furthermore, the development of norms for protecting human rights proceeded unevenly, slowed by sharp ideological divisions.

Development is not a new issue, nor has it escaped the attention of policy-makers and world leaders. It appears in the Charter of the United Nations [18]. At the conceptual level, the interaction between development and international law has been a story of legal principles, economics, politics and social theory.

Over the years, there has been a significant commitment on the part of the international community to establish primary rules to guide development. While these have generally been elaborated as objective legal principles, they also emerged at particular moments and were associated with specific intellectual and programmatic movements. For instance, in the 1960s, this took the form of the so-called “new international economic order” (NIEO), which was framed largely in terms of the relationship between developed States and those emerging from decolonization or otherwise categorized as “undeveloped” or “developing.” From the 1972 United Nations Conference on Human Development in Stockholm to the present, the interaction has focused largely on the concept of sustainable development, with international law serving as the main source of principles such as inter-generational equity, common but differentiated responsibilities and precaution, among others. In the 1980s, the discourse shifted slightly to incorporate a specific right to development, reflected in the General Assembly's Declaration on the Right to Development [19]. In recent years, attention has focused to a greater extent on the relationship between the rule of law—at both national and international levels—and development [20]. Together these interactions have contributed to the emergence of what might be considered an evolving international development law [21].

### **Terrorism**

One of the abiding tragedies of the world today is terrorism and such phenomena that are taking enough attention but is witness to the unwillingness of the world to take such corrective actions against them. Indeed, some leaders today are doing the "single-handedly" action destroying their countries by supporting terrorist groups. There is no question of historic factors such as colonialism, slavery, and exploitation causing deep and lasting terrorism in the world. The phenomena itself is extending far beyond boundaries, in the Middle East for *i.e.*, terrorist groups are creating the conditions for the spread of terrorism and chaos. The conditions for armed revolts that degenerate to the level of the Lord's Resistance Army

(LRA) in Uganda or the Revolutionary United Front (RUF) in Sierra Leone are now ripe [22].

International law specifically addressing terrorism exists within the general framework of international law including international criminal law, international humanitarian law, international human rights law and refugee law.

One lesson that can be learnt from looking at the framework of international law relating to terrorism is that it has a complex and interlocking structure. No body of international law stands in isolation and the variety of tools required for preventing and combating terrorism may engage a number of different aspects of international law. A request for extradition of an individual under one of the universal counter-terrorism instruments may raise questions of international refugee law or international human rights law. A decision on whether or not to prosecute a terrorist may give rise to questions of international criminal law and international human rights law as well as national rules on jurisdiction.

The danger then is not to states or regions, but is worldwide. As *al Qaeda* and *Hezbollah* exploited Liberia for financial reasons which strengthened their positions, so they will in Zimbabwe as well. As chaos spreads, the cost in human terms will be dire and the economic cost of remedying the situation further down the road will be staggering. But the solution is not in the hands of the West alone, but in the hands of the East also; they are enjoying a measure of freedom and prosperity in their own states but are unwilling to lift a finger to stop the abuses in the region. This phenomenon just like any other disease there, it needs the leaders of the world and states to address the issue directly [23] to finally break their silence about the catastrophe. Or they could remain silent and complicit, and this year could mark the beginning of an even steeper decline into oppression. The absence of laws and regulations often paves the way to the collapse of communities, and political change sometimes foments chaos. In such environments, terrorism is likely to fester and thrive [24].

Add to that the chaos arising from the American policy through its “innovation theory,” which has accompanied global terrorism and has been used already in the U.S. strategy, which calls upon the policymakers of the U.S. to attack the terrorist phenomenon from its roots [25].

It is recognized that the economic side plays a major role in violence, aggression, terrorism, poverty, deprivation, dispossession and the emergence of social inequality, all of which can lead to inimical acts and reprisals. The absence of laws and regulations often paves the way to the collapse of communities, and political change sometimes foments chaos. The

continuation of the acceptance of the evil of terrorism; i.e., that which is motivated by nefarious aims, and benevolent terrorism; i.e., that based on a good cause, would undermine the principles and rules of contemporary international law, making the logic merely chaos, and violence the governing logic in international relations instead of justice, human rights, and respect for the right of nations to self-determination. To complicate matters is as discussed below, the world’s concern for respect for human dignity while attempting to distinguish the bad people from the rest of humanity [26].

The U.N. special Rapporteur for the U.N. Commission on Human Rights, M. Kalliopi K. Koufa, has distinguished among five different types of terrorism: (1) individual or group terrorism, (2) international state terrorism, (3) state regime or government terror, (4) state sponsored or state supported terrorism, and (5) national liberation struggles for self-determination [27]. Any state opposing the big powers’ policy would be faced with more sanctions and blatant interference in its internal affairs [28]. The examples in this framework are many and varied. In light of what is going on the international arena, if we have not already fallen into chaos in the world, we are dangerously close to it [29].

Since its first appearance in the last centuries, terrorism has been studied within a specific frame of reference, that of terrorism itself. Today, this concept has become too narrow. With the end of the bipolar world order (marked by the fall of the Berlin Wall), terrorism mutated and moved outside the domain of which it used to be analyzed. The broader domain of the threats, criminal and other, that now menace society provides a more suitable framework for conceptualizing and defining terrorism and understanding its extent.

Today, the real menace is posed by hybrid and transnational groups that are opportunistic and capable of rapid transformation. The real conflicts (in the Balkans, in Africa, and elsewhere) are essentially civilian and are often ethnic or tribal. They are cauldrons of crime; religious fanaticism; massacres; piracy; and trafficking in human beings, drugs, arms, toxic substances, or gems. The conflicts that inspired by terrorism originate in two types of lawless zones: (1) Failed states that have become temporarily or permanently anarchic (Afghanistan, Albania, Liberia, Sierra Leone, etc.) and (2) vast anarchic urban sprawls in the developing world (Karachi, Lagos, and Rio de Janeiro), where entire districts and suburbs are effectively controlled by organized criminal groups, terrorists, and traffickers.

Therefore, with these points in mind, we can safely speculate that with the various international organizations that exist in their current states, as long as the domination and marginalization of peoples occur

and international laws are lacking in principles, terrorism will abound. International law has contributed to the issue of war and terrorism [30], and war falls into three different principals which are *jus ad bellum* as a right of state the to use force, *jus in bello* concerning the mechanisms of the use of force during the war, and *jus post bellum* concerning the termination of the war. Furthermore, stability, security, and justice in the world and in the Middle East, in particular, will remain hard to maintain as long as the international policy-makers practice double standards in adhering to U.N. resolutions and international laws.

Terrorism consists of two major elements: political aims and methods and means. One may find a political aim as legitimate, even sympathise with that aim. But terrorism is not a matter of the political aim alone; instead, its essence lies in the means and methods employed to reach that political objective. The freedom fighter v. terrorist arguments reflects confusion on this point. The same is true for the terrorism v. armed conflict controversies. Whereas terrorism is an issue of means and methods, armed conflict addresses the strategic situation; the two are not comparable. Terrorism may be committed both in time of peace and in time of armed conflict.

### Global Environment

The United Nations has been in the forefront of those institutions concerned with the air level immediately above the earth's surface. Beginning with the Montreal Protocol on Substances that Deplete the Ozone Layer in 1987 [31], then extended to the Kyoto Protocol in 1992 [32], and most recently the Paris Agreement [33] all of which have contributed to our awareness of the dangers, but also to the matter of sought for correction [34].

It ought to go without saying that the draftspersons of the Paris Agreement on Climate Change made their legislative message as clear as possible. Due to the complex nature of the global environment, it is required by those who formulate international environmental law to each deal in depth with a limited range of problems where they must resort to delicate negotiations and skillful diplomacy to find solutions that please the different motives whether politically or economically of the states involved [35]. In addition, the next important step is to explore the existing challenges that stand in the face of a more progressive development of the global environment such as:

- Excessive time lags between scientific understanding of environmental issues and corresponding development of appropriate laws at the national, international, and regional levels;

- Outdated or inadequate national legislation or international agreements to effectively address certain environmental issues;
- Lack of environmental laws to adequately preserve and protect natural resources and ecosystems, especially in developing states.
- Insufficient capacity to implement environmental laws, especially in developing states.

Legal problems facing multilateral agreements on climate change have been repetitive and always allowing a great gap between the signed documents and the put into implementation process, for that we see it is necessary to establish a more direct plan to have a legal binding document that does not allow the easy way out option for states that want to run away from their commitments.

### Cyber Security

With the introduction of modern technology, the measure of the abstract notion of time moves from linear to exponential, i.e. Moore's Law. Hence from the middle of the 19<sup>th</sup> century to date, the human capability to control events moves with alacrity unknown in prior history. But has is often the case, innovation and invention proceed with unintended consequences. Such is the case with the means of communication that have surpassed what science fiction aficionados ever dreamed up. From computer technology to the Internet, sending messages over the electronic bandwidth has allowed anyone with the ability to capture wave stimuli to deny privacy with varied malevolence in play. This most current phenomenon has become a harbinger for international lawyers concerned with national security policies [36].

The terms "cyber-attack," "cyber-warfare," and "cyber-crime" are frequently used with little regard for what they are meant to include. This lack of clarity can make it all the more difficult to design a meaningful legal response. Nevertheless, there is no settled definition for identifying these incidents as cyber-attacks, [37] much less as cyber-warfare. The absence of a shared definition has made it difficult for analysts from different countries to develop coordinated policy recommendations and for governments to engage in coordinated action.

Hence the technical project of defining cyber-attack is an important first step toward addressing the growing threat posed by cyber-attacks. After describing some existing definitions, we offer a definition that effectively encompasses the activity that lies at the heart of the concerns raised by cyber-attacks [38]. Technical experts have proposed more limited definitions. For example, in his famous and prescient 1995 work on information warfare, Martin Libicki limits cyber-warfare to semantic attacks—digital assaults that cause

systems to seem to operate normally, when in fact, they generate “answers at variance with reality” [39].

In a matter of days, the cyber-attacks brought down most critical websites, causing widespread social unrest and rioting, which left 150 people injured and one Russian national dead. [40] The international legal system is unlikely to form a coherent body of “information operations” law soon. The criteria used to distinguish normal cross-border data flows from cyber-attacks needs to be clearer and more precise [41].

### **Human Rights**

As part of its mission, the international community has been actively engaged in a peace process aimed at ending the fighting and forming a unity government for protecting the rights of humans. However, accountability for countless chaotic incidents throughout the world and other serious human rights abuses are still elusive. The scale of chaos is staggering. Wars are in every corner of the world, such chaos carries out hundreds of abductions, taken hostages, tortured, ill-treated and summarily killed detainees, and launched indiscriminate attacks on residential areas in some cases amounting to war crimes.

In the meantime, chaos has continued and the humanitarian situation has sharply deteriorated. Regional and global conflicts have nearly always resulted in disasters that violated human rights. Checking through the annals of history, a bloody and blackened record is found, and most of these pages contain memories that cannot be easily erased, or glossed over, and shall remain as witnesses of the barbaric and senseless abuses of human dignity. Past events demonstrate the tragic and humanitarian disasters from the Hulagu Khan era [42], to the Ottoman period [43], as well as the genocide of Cambodians, Rwandans, the Kurds, Armenians, the uprooting of the Palestinian people, and the killings by attackers, such as Europeans, who came from outside the region, to exploit its resources and set up boundaries and barriers between colonized and subjugated peoples. The concern for human rights seems to have garnered the attention of the world only after the evidence of human carnage following World War II [44].

Concerning the matter of chaos, human rights, and democracy, there is a conflict between the challenges of maintaining global peace and security on the one hand and the need to respect state sovereignty on the other hand. The complexity of this dilemma is clear; the twentieth century was replete with interventions ostensibly justified on humanitarian grounds. In retrospect, it seems that while ‘great powers’ may have claimed that military intervention served a humanitarian goal, the overwhelming and irrefutable reality was that their objectives for intervening were rarely (if ever) the claimed humanitarian one [45].

An essential point that should be investigated when discussing chaos is as follows:

- The ignorance among individuals, groups, and even the leadership of the state exercising such chaos.
- Poverty and unemployment experienced by people sometimes created by the state in order to facilitate genocide, or by a particular group that is loyal to the existing political system.
- Injustice, aggression, and the use of cruelty against human beings, especially in the totalitarian regimes that have abolished fundamental human rights.
- The demand of self-determination, which always faces rejection by closed political systems.
- The lack of institutional systems and the absence of civil societies.

Identifying the purpose of chaos will, to a significant degree, help determine the appropriate structure of it. Most contemporary chaos arises when a cultural or ethnic group perceives itself to have been unjustly deprived of certain rights. The international community must take more responsibility to conduct investigations to stand against violations of human rights principles caused by chaos.

Having said so, militants have murdered hundreds of thousands over the past years due to chaos in certain places in the world. At present, almost every day, people are killed by such militants. Their main targets are a religious minority, human rights activists, freethinkers, secular activists and more importantly they are targeting whoever against their militant ideology.

There have been continuous killings of secular bloggers, publishers, LGBT and human rights activists. These militants have upgraded their name and scope of killings in recent years. At present human rights condition is the lowest in history. None is safe and nowhere. Earlier people used to seek help to remain safe, but now people are killed everywhere and no one part of the world is free from human rights violations. We suspect that governments and law enforcement agencies have got the ability to stop these internationally linked militant organizations. They might collect intelligence in small scale, but they do not have the ability to counter them. Unless they deploy Army to tackle these militants within each country.

It ought not to be required to say but alas suitable for a repetitive reminder: A careless lack of attention to functional rules most likely results in punitive destruction.

## CONCLUSION

To the explosive question put forth by Professor van Aaken, “Is International Law Conducive to Preventing Looming Disasters?” our answer is a resounding yes [46]. The world is too dangerous a place for any single state to go it alone. Agreements among state actors are but a beginning. There must be a sense of transnational, organized unity of purpose under the aegis of international law that serves the global good. Alas, without an alternative to international law to provide a safe haven for order, stability and a desire to live in a civilized manner disorder and destruction become inured as a regular norm.

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