1 Introduction to International Organizations

All international organizations exist in the conceptual and legal space between state sovereignty and legal obligation. They are created by the commitments made by sovereign states, and their purpose is to bind those states to their commitments. This chapter examines three forces in world politics: the commitments states make to international organizations, the choices states make regarding compliance and non-compliance with those commitments, and the powers of enforcement held by each international organization.

Some international organizations are able to coerce their member states into complying with their commitments; for instance, the UN Security Council has a military component and the IMF has coercive leverage over its borrowers. But far more commonly they are left to find ways to cajole or induce compliance from their members. In each organization, the particular relationship between obligation, compliance, and enforcement is different which in turn creates interesting patterns of politics between states and organizations.

The main problems of international economics and international politics are at some level also problems of international organization. As interdependence between states increases, the importance of international organizations increases with it. International organizations in one form or another are found at the heart of all of the political and economic challenges of the twenty-first century. From international credit markets to endangered species to war crimes and torture, today's leading controversies all involve some measure of international cooperation and commitment managed through formalized international organizations (IOs). Some IOs work well and some work hardly at all; some need reform, some need abolishing, and some need strengthening. To understand how the world works requires understanding the politics, powers, and limits of international organizations.

The book introduces eleven of the most important international organizations, including those most central to international economics, international security, and international law. It considers their legal powers, their practical effects, and their political controversies. The organizations are:

- the United Nations (UN),
- the World Trade Organization (WTO),
- the International Monetary Fund (IMF),
- the World Bank (WB),
- the European Union (EU),
- the International Court of Justice (ICJ),
- the International Criminal Court (ICC),
- the International Labor Organization (ILO),
- the Organization of American States (OAS),
- the African Union (AU), and
- the Association of Southeast Asian Nations (ASEAN).

Each chapter is structured around three key questions:

(1) What are the obligations that countries consent to when they join the organization?
(2) Do states in practice comply with these obligations?
(3) What powers of enforcement does the organization have when member states fail to comply?

This approach allows us to look at both the law and the politics of these organizations. It begins with an examination of the obligations that states take on when they become members of the organization. The details of these obligations come from the legal treaties and charters that found the organizations. These obligations are usually presented in clear language (for instance, the UN Charter says members must "refrain from the threat or use of force" to settle their disputes) but they inevitably leave a good deal of room for arguments over interpretation – for the Charter, we need to know much more about what counts as a "threat of force" and how self-defense should fit with this obligation.

Despite the ambiguity that exists in all these commitments, it is still useful to begin the study of international organizations by looking at what states have committed to doing or not doing. It is only through a familiarity with the legal terms of IO treaties that one can evaluate the competing claims put forward by states regarding those obligations. States show a strong inclination to present their own behavior as fully compliant with their legal obligations,

and they equally often suggest that their counterparts in a dispute are breaking the law. Most IOs are not equipped with a legal body that has the authority to make authoritative judgments in disputes over compliance (the EU and the WTO stand out as exceptions to this rule). Most often, contestation over compliance spills over from the organization to the wider worlds of international law and international politics. International organizations are also usually given only very weak instruments of enforcement, and they rely on more subtle tools that work through persuasion, reputation, and status in order to induce compliance. As a result, the politics of compliance with international organizations are complicated and represent the fusion of legal interpretation and political practice.

Obligations

The treaties that provide the foundation to each of these international organizations set the starting point for studying their powers and effects. The UN Charter, the IMF Articles of Agreement, the Rome Statute of the ICC, and others spell out the commitments that member states are taking on and the powers that are being granted to the organizations themselves. Once in place, the activities of the organization are governed by the terms of the treaty, and the obligations of the members are defined by the commitments they made there. As a result, any examination of the powers and problems of international organizations must begin with the rules included in the treaties. These rules range from the commitment in the UN Charter to "accept and carry out the decisions of the Security Council" (Art. 25), to the commitments that states make with the International Monetary Fund that require policy changes in exchange for loans, to the promise to bring new labor conventions proposed by the International Labor Organization to one's national legislature for consideration (Art. 19 of the ILO Constitution).

The IOs in this book were all founded by inter-state treaties. These treaties spell out in explicit, "black-letter" law the goals and powers of the organization and the obligations and rules that member states must take on. When governments join international organizations, they promise to accept the rules and obligations that are in these treaties. These may include rules that are explicitly set out in the treaty, as when the Statute of the International Court of Justice says that decisions of the Court are final and binding on the states in the dispute

(Arts. 59 and 60), and they may as well include indirect obligations that arise in the course of the operation of the organization, as when the UN Charter gives the Security Council the authority to create new legal obligations on UN members (Arts. 25, 39, 49). The former are known in advance by states when they join the organization, while the latter are more open-ended and involve some risk that future practice might create obligations on states that they were not expecting. In both cases, however, it is imperative to any understanding of the role and power of the organization that one pay close attention to its founding treaty. The legal terms in each treaty are the authoritative source of the obligations that states owe to each other and will be finely parsed long into the future by diplomats, activists, and states who look to use them to serve their own purposes.

When assessing the impact of international organizations, it is important to be realistic about these obligations. It is easy to criticize the UN General Assembly, for instance, on the grounds that it passes many resolutions that governments then fail to implement. However, this complaint makes little sense when we remember that the UN Charter gives the General Assembly (GA) only the power to "make recommendations" to states, and does not give it the power to take decisions or impose new obligations (Art. 10). UN members are not legally obligated to carry out General Assembly resolutions. As we shall see in Chapter 3, many of the UN's member states would likely not have joined the organization if the General Assembly had been given the power to compel them through binding resolutions. The existence of the GA with its majority-rule voting system is premised on it being a body that makes recommendations rather than one that takes binding decisions. The Assembly's influence therefore cannot realistically be assessed by measuring compliance and non-compliance with its resolutions – it should instead be assessed in light of the more subtle power it has to define legitimate and illegitimate behavior, and the contribution that this makes to the broader political environment of state behavior.

For example, it is difficult to understand US behavior toward the International Criminal Court without close attention to the how the Rome Statute defines the powers of the Court relative to the states that are its members.[1] The US helped create the Court, signed (but didn't ratify and subsequently withdrew from) the Rome Statute, and professes a strong affinity with the goals of

[1] William A. Schabas, *An Introduction to the International Criminal Court*. Cambridge University Press, 2007.

the organization. It has used it via the UN Security Council with respect to Sudan, Darfur, and Libya. And yet it is highly ambivalent toward the organization itself, and we can expect more hostility to it throughout the Trump presidency. The US has refused to become a member and for several years it actively sought to punish governments that did choose to become members. These apparently contradictory positions toward the ICC can be reconciled by looking at the particular obligations of members set out in the Rome Statute in light of the official American view that the Rome Statute gives too much autonomy to the ICC's prosecutor and judges. A complex balance between state power and prosecutor's power is defined deep in the fine print of the treaty. The technical language in the Statute where states' obligations are defined has political implications in international relations that go beyond the formal bounds of the organization.

Compliance

With a well-grounded understanding of the legal obligations of states, we can then consider why, when, and how well states comply with those obligations. Compliance is almost always looked at as a choice of states, but this book also looks at how IOs might shape world politics in ways that are not understood by the imagery of "choice." There are two moments where state consent is explicit in and around international organizations: at the moment of joining the organization, and at the point where states see the opportunity to follow or to violate its rules. There are also many moments where governments find themselves operating on an international political terrain that is shaped by international organizations, where IO effects are structural and constitutive and thus inescapable for states.

It is common to think about international organization at those moments where a state is faced with strong incentives to go against some rule of an international organization. This is often in the context of an international crisis where a country wants to violate the rules. This was the case, for instance, with the American decision to invade Iraq in 2003 in the face of the UN Security Council's refusal to grant it the necessary authorization. These are often dramatic moments as they pit state choices directly against international rules. Not surprisingly, the record of state compliance with IOs at such moments is mixed: given sufficient incentive, states are often willing to ignore their legal

obligations – though we should not ignore those very interesting (and probably equally frequent) instances where states choose to comply despite the incentive to violate. The chapters which follow examine these moments of choice, where states are faced with a choice between compliance and violation. However, they also do more by examining how international organizations influence the resources with which states conduct their disputes and therefore how state behavior is understood.

The focus on these moments of explicit consent or choice by states does not account for everything of interest that passes in the relationship between states and international organizations. Therefore, each chapter of this book also looks at more subtle ways that international organizations influence the behavior of states and other actors in world politics. Many of the interesting effects that IOs have on states occur in a different register than that of conscious strategic choice – the organizations in this book all operate in part by shaping the environment in which states exist, the interests and goals states have, and the background sense of what is reasonable and normal in international politics. For instance, the decisions of the UN Security Council over the years have helped construct the idea of humanitarian intervention and as a result the international response to new crises is heavily conditioned by this idea and by its limits.[2] Similarly, the ICJ advisory opinion on the legality of the Israeli wall was not legally binding on Israel but it has made it more politically costly for the government of Israel to continue with policies that were criticized by the Court. These effects can sometimes be subtle, but they are an important component of the practical life of modern international relations and they must be taken into account as we consider the effects of IOs in the world. To understand the power of international organizations, as well as the controversies around them, it is important to be attentive to these more subtle effects as well as the more dramatic moments where states choose to violate or comply with their obligations.

Enforcement

It is rare that international organizations are constituted in such a way that they can take effective enforcement action against states who fail to live up to their

[2] See Martha Finnemore, *The Purpose of Intervention*. Cornell University Press, 2003.

obligations. A few do have robust means of enforcing the rules against violators: for instance, the IMF can withhold further loans from a state that fails to fulfill the terms of previous loans; the UN Security Council can authorize military action against a state that threatens international peace and security (such a threat is by itself a violation of the Charter); and the WTO can authorize trade sanctions against members who violate their commitments. But the more normal condition is that members face at most a very indirect threat of punishment for their violations – for instance, the loss of reputation that might come from being publicly branded as a rule-breaker.[3] IO enforcement often involves playing on the apparent desire of states to be seen in a positive light, as good international citizens. This may be very powerful indeed, but it follows a different logic than more direct kinds of enforcement threats.

The absence of direct enforcement power is often held up as evidence of the irrelevance, or at least the marginal importance, of international organizations and as a justification for paying little attention to their rules and decisions. Without the threat of enforcement, why would states ever concede to international organizations when their interests point in the direction of violation? It is easy to dispense with this objection on empirical grounds – that is, it is easy to show that states do indeed often comply with international organizations despite the lack of enforcement. The examples in this book show this in action.

What is harder to explain is *why* they do it. For example, most countries that lose a case at the International Court of Justice end up changing their policies as required by the Court despite the fact that the ICJ's powers of enforcement are essentially nil.[4] Why this result obtains is hard to know. It may be that states feel highly committed to the idea of the rule of law and so they are naturally motivated to follow through with Court rulings. It may be that states fear that other countries will be less inclined to enter into agreements with them if they are thought to have reneged on commitments in the past. It is easy to hypothesize plausible reasons but impossible to test among them. It may be that the only cases that make it all the way through the ICJ process are ones that the parties are comfortable having resolved by the Court, in which case the compliance rate is merely an artifact of the selection process that filters its cases. Any of these mechanisms might produce the high rate of "compliance without enforcement" that we observe around the ICJ. They differ greatly, though, in what they mean

[3] On the force of reputation, see Andrew Guzman, *How International Law Works: A Rational Choice Theory*. Oxford University Press, 2008.

[4] Nagendra Singh, *The Role and Record of the International Court of Justice*. Springer, 1989.

for the power and authority of the Court. And to figure out which one is the correct explanation for any particular case requires a close look at the working of the ICJ and at the details of the case and its parties. This kind of examination is done in Chapter 8 of this book.

Sovereignty and Consent

The tensions between state obligations and state sovereignty provide the fuel that drives world politics in and around international organizations. State sovereignty is defined by the legal and normative framework that constitutes states as the final authority over their territory and the people within it. States are sovereign in the sense that they are not subject to any higher political or legal authority. As a result, they have the exclusive right to make decisions over all domestic matters without interference from the outside. Attempts by other states to apply their laws or policies across the border are usually seen as illegal and possibly aggressive moves of extra-territoriality.

The laws and practices of state sovereignty lead to a clear distinction between domestic and foreign affairs. This is as clear (in concept, at least) as the borders on the map that delineate physical territory into separate countries.

Sovereignty is an international institution in the broadest sense of the word "institution": it is a set of rules that organizes social and political practice. It is not, however, a formal organization as I use the term in this book. The institution of sovereignty demarcates a domestic realm in which states have absolute authority and an international realm in which the problems of interdependence get worked out. In practice, of course, there is always some room for argument about the limits of the domestic sphere and of the absoluteness of sovereignty over domestic affairs themselves. The following chapters show that a good deal of the work of international organizations arises because of such arguments. For instance, since changes in one state's domestic monetary policy (such as the interest rate) can have large and immediate effects on the economic conditions in other states, it is not self-evident how to draw the line between the rights of one state to set its own policies and the rights of others to be independent from outside influence. Indeed, its not clear what autonomy can possibly mean in circumstances of interdependence. The inability to control one's own internal conditions is the premise of international interdependence in the first place.

The principle of non-intervention is a logical corollary of state sovereignty. It is clear what non-intervention means when it comes to military invasion from the outside, but its implications are less clear when it comes to the more complex forms of cross-border influence that arise under conditions of "complex interdependence" as they exist today.[5] Where cross-border flows exist – formal and informal, licit and illicit, of goods, people, ideas, and money – non-intervention across borders in any strict sense is inconceivable. The demand for international organizations arises due to the unavoidable interdependencies between states, and their utility is measured by their contribution to managing them.

Because states are understood to be the highest political and legal authorities in the modern states system, the rules of international law and of international organizations are always subordinate to the rights of states. This creates many of the tensions that animate world politics. To the extent that international laws exist, they exist because states have consented to them, and (for the most part) international laws apply only to those states that have consented to them. State consent is therefore the crucial element that brings international obligations into existence.

Exceptions to this generalization are revealing: for instance, the UN Charter includes a clause that requires that members of the organization "shall ensure that states which are not Members of the United Nations act in accordance with" the principles of the UN Charter (Art. 2(6)). This article is written carefully so that it creates a legal obligation on members rather than non-members, and is therefore consistent with the traditional interpretation of sovereignty, but its effect is to set some standards of behavior on non-members. Its status is provocatively ambiguous. As a general rule, however, international organizations create obligations on states only because the states have agreed to be bound by them.

Under the system of state sovereignty, states are free to withhold or to withdraw their consent to these rules as they see fit. This leads to the familiar problem of international organization (and of international law more generally) of figuring out how an IO can enforce its rules against a member state whose subordination under the rules rests on its consent to them. State sovereignty both empowers international law (when states consent to be bound by the rules of an international organization) and undermines it (when states withdraw or withhold that consent so that the rule ceases to apply to them). All of the

[5] Robert O. Keohane and Joseph S. Nye, *Power and Interdependence*, 3rd edn. Longman, 2000.

politics, practice, and law of international organizations take place in the puzzling shadow of state consent.

Consent is evident in the choice to join or not join an international organization. This is presumably based on a national-level assessment of the state's interests. Switzerland, for instance, for many years declined to join the United Nations, and it changed its position only in 2002. The organization and its existing members may set rules on which states they will accept as members, and when a state refuses to join an organization, it generally has no legal obligation to pay any attention to what it says. Interests and choices are evident again in a more micro-fashion each time a member state is confronted with the need to comply or not comply with the rules or decisions of an organization. The choice to join and the choice to comply lead to distinct conversations about violation and compliance: states are violating their international obligations when they break rules that they have consented to, but it cannot be said that they are breaking the rules if they have chosen not to join the organization in the first place. The need to consent means that states can choose to violate international rules, and they can also choose to make the rules not apply to them. The second form probably should not be counted as a violation of international law.

The difference is interesting in the practice of world politics. For instance, Canada has long accepted that the International Court of Justice has automatic jurisdiction over its legal disputes with governments that have similarly accepted this automatic jurisdiction. This is known as an "optional clause" declaration under the ICJ Statute and is described in Chapter 8. Canada's commitment dates back to at least 1930, when it made this commitment to the ICJ's precursor: the Permanent Court of International Justice. In the early 1990s, however, Canada developed an interest in reducing fishing in the North Atlantic, including by foreign fishing vessels on the high seas. Extending its governance of fishing beyond Canadian waters was legally suspicious, and so in anticipation of legal challenges Canada sent a memo to the ICJ that excluded from its promise any "disputes arising out of or concerning conservation and management measures taken by Canada with respect to vessels fishing in" the area of the North Atlantic.[6] This was in 1994. The following year a brouhaha arose when Canada seized a Spanish trawler and arrested its crew for fishing on

[6] See American Society of International Law Insights, December 1998, www.asil.org/insigh28.cfm. Accessed March 24, 2009.