

## The Necessity of Democratization of the International Legal Order (Original Research)

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### Extended Abstract

#### 1. Introduction

As the third millennium begins, humanity grapples with a complex web of problems such as poverty, unemployment, increasing inequality within and between States, increasing weapons, war and militarism, terrorism and fundamentalism, financial and environmental crises, refuge and immigration, violation of human rights and democracy, discrimination along lines such as sex/gender, ethnicity, and race, widespread violence, etc. What is important is to understand the relationship of these problems with each other and with the order based on domination, injustice, and systematic inequality ruling the world. All of the above issues can be seen as the result of the order based on the relations of domination and power at various levels, which, in the final analysis, create limitations in the realization of the autonomy of individuals. In the contemporary globalized and interconnected world, these issues, some of which were controllable by States, transcend the capabilities of individual ones, demanding global solutions outside the State-centric order in the form of a global legal order that can effectively bind States and Non-State Actors in the international sphere to guarantee the autonomy of individuals. In avoiding idealism in this field, which leads to proposals such as the creation of a centralized global government, international law is an available option to do the aforementioned function; However, the realization of this matter, considering the limited success of international law in this regard, requires overcoming the obstacles to the effective functioning of international law in

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carrying out this mission. This article considers the reason for the necessity of democratization of the international legal order as its central question in addressing these issues and facilitating a transition from the current state of affairs, and to improve the feasibility and effectiveness of this solution, conceptualizes it as a gradual, dynamic and multidimensional process centered on the United Nations system, which relying on the democratic defects of the existing order, makes changes at different levels to guarantee autonomy of individuals. By overcoming the shortcomings of international law, the mentioned process can help strengthen it to act as a global law capable of establishing the rule of law at the global level.

## **2. Research Gap and Objective**

It is impossible to solve, control, and contain the above issues except through a set of regulations and norms with a global scope. However, the success of international law in realizing this goal has been scant. The limited success of international law in this regard can be attributed to two factors: First, the nature and characteristics of international society, and second, the structural weaknesses and deficiencies within international law, as well as its lack of objectivity and neutrality, which raises international law as part of the problem. Nevertheless, acknowledging the role of politics in international law, its lack of objectivity and neutrality, and its close ties to politics does not negate the potential of international law as a solution. International law possesses a distinct identity and plays a crucial guiding role in maintaining global order. Therefore, while international law is part of the problem, it is also part of the solution to overcome the existing situation and manage the current issues. To effectively serve as part of the solution, international law must undergo a process of democratization.

## **3. Methodology**

The present text adopts a critical approach and emphasizes the connection between law and politics, and the need for legal analysis within its social context on the one hand, and emphasizes the structure, logic, and internal dynamics of the law on the other. An interdisciplinary methodology is employed within the text, and the analytical tools of social sciences are used to study, critique, and reconstruct international law. Moreover, by emphasizing the normative nature of international law, the authors have utilized its research methods such as analytical and descriptive means in the related areas.

## **4. Key Findings**

The article argues that addressing the above challenges which often restrict autonomy of individuals, necessitates the reform and democratization of the current international legal order and emphasizes that democratizing the

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international legal order, with a focus on autonomy can, *inter alia*, overcome the cross structures of rejection and domination, as well as the tension between objectivism and subjectivism, and help to increase legitimacy and compliance with international law, and as a result, strengthen the rule of international law.

### **5. Contribution to the Field**

Studies addressing the need for democratization of the international legal order, have primarily progressed in two directions within political theory and international law. In political theory, the focus lies mainly on the core democratic values challenged by globalization within the traditional political societies' framework. As a result, international law's reform and democratization are suggested as a pragmatic solution to overcome these challenges. On the international legal-studies side, democracy is usually assumed as the preferred form of governance and concentrate on a set of democratic institutional requirements. Thus, the need for international law democratization emerges as a consequence of deficiencies within these mechanisms. In an effort to respond to this question, this article starts from the concept of autonomy as a non-instrumental and central value of democracy, and by avoiding a formal or procedural approach to the democratization of the international legal order, considers its necessity due to the challenges of realizing autonomy in the State-oriented perception of it in the present era. Additionally, by analyzing the issue from the international law perspective, it demonstrates how this process can help overcome the limitations and barriers hindering international law's effectiveness as a key factor in shaping the global order.

### **6. Conclusion**

In the current globalized community, overcoming the forces and structures that threaten the autonomy of individuals can no longer be guaranteed within the framework of traditional political communities. Protecting autonomy requires the expansion of democracy on a global scale, enabling citizens to participate in all decisions affecting their lives. Establishing a global democracy does not necessitate a centralized global government; changes can be implemented at various levels to uphold democratic values and guarantee individual autonomy. Given the undesirability and impossibility of a global government, or a less centralized model, and contemporary political and social realities, international law emerges as the most viable option for creating a global democratic order. This requires the democratization of the international legal order around the United Nations system under a gradual and multidimensional process; In such a way that relying on the democratic defects of the existing order, it applies changes at its different levels to manifest democratic values and guarantee autonomy of the people. Democratizing the

international legal order presents an opportunity for international law to transcend its inherent structural limitations. By embracing diverse subjectivities, the aforementioned process can help international law to act as a space in which an intersubjective consensus can be provided to achieve objectivity. Also, the democratization of the international legal order to ensure the autonomy of citizens is a pragmatic solution to simultaneously overcome the multiple and intersecting structures of domination and inequality to avoid focusing on a specific feature of it. Strengthening the objectivity and overcoming the existing inequalities from the above channels will ultimately lead to an increase in the objectivity and universality of international law, and as a result, increase the legitimacy and compliance with the rules of international law, and strengthen its position to act as an effective global or transnational law.

### Keywords

Personal Autonomy, Democracy, Global Democracy, Democratic Defects of International Law; Democratization of the International Legal Order

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