THE THEORY OF INTERNATIONAL RELATIONS AND THE SCIENCE OF INTERNATIONAL LAW

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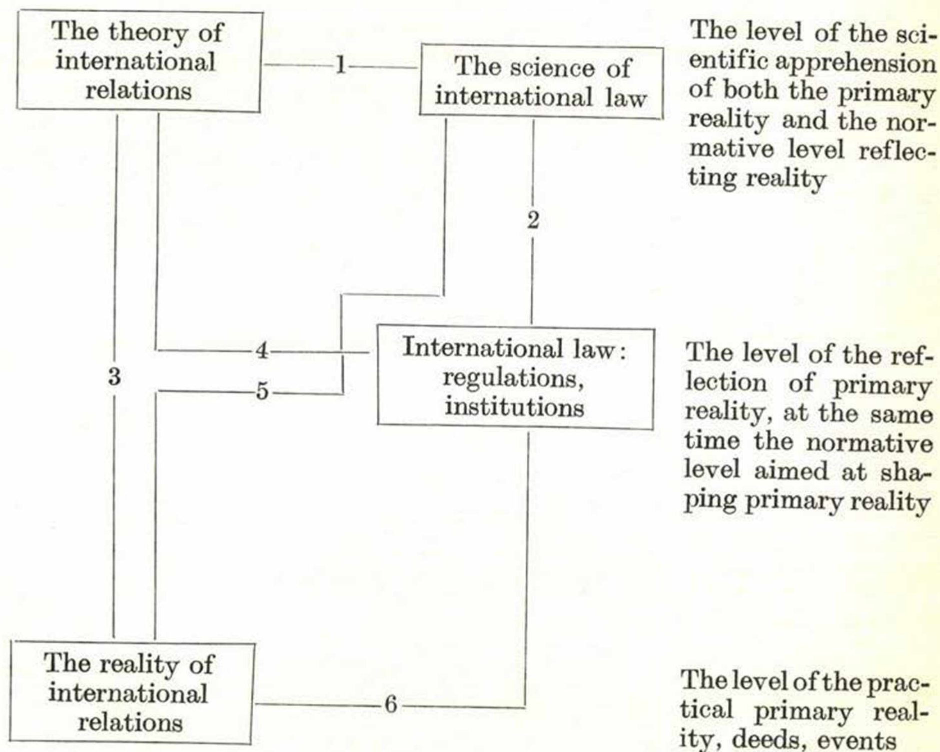
I. Approach

When comparing the theory of international relations and the science of international law, we have to be aware of the assignment we undertake. This is illustrated by the graph below.



Altogether six intereffects, contacts exist between the four elements of the graph. From among them, this study concentrates on No. 1, it sheds light on the difference between No. 2 and 3, and refers to No. 5 and 6.

The theory of international relations and the science of international law can be compared if they are homogeneous forms of consciousness. Their homogeneity may be that they are both sciences or that neither of them are.

With regard to both fields, doubt emerged concerning their scienfific nature. During the history of the theory of international relations, in the debate between the traditionalists and scientists (modernists), the traditionalists doubted whether that what the scientists are entering into can be regarded as science. The answer of the scientists was to put a question mark against the operation of the traditionalists.[1] Although since then the dispute calmed down, the problem behind it has not been solved: there is no unanimously approved definition of what is science and what is the method of scientific cognition.[2]

The science of international law, moreover, the entire legal science struggles in the same way concerning its own scientific character and several of its representatives deny that legal science would be a science.[3]

As textbooks and periodicals are still published independently from the science theoretical answer to be given to the question raised, I will *call* the theory of international relations and the science of international law science.

In this case, another question emerges. What should be regarded as the standpoint of science in a given question?

In the theory of international relations there are practically no generally approved theses which would not be debated by at least one major school. It is easier to find such in the science of international law – if somebody is cautious enough and *does not* dig too deeply into the professional literature.

Consequently, the theory of international relations as a whole canno-be compared with the science of international law as a whole – with scientit fic precision. Neither can one separate the two from each other. However- it can be done in practice if one combines the various views which emerged, in the given science into a uniform series of statements through a brutally grandiose simplification. After this, some of the usual questions of the comparison of the two branches of science can be raised.[4]

- what is their subject?
- what is their methodolgy?
- what are their functions?

This paper supplements the above questions with an additional one:

- what values are they carrying, and what are they evaluating?

II. Subject

The mutual starting point: both analyze the relations between societies organised into states. Observing the question more closely, we find that through its certain branches the theory of international relations takes into consideration the processes within the state. It deals with smaller units than the state – parties, classes, public opinion, organisations, and individuals – thus ,,entering the billiard ball".

Up to now the science of international law has been concentrating on *interstate* relations, it analyzes interstate negotiations and the resulting – or abortive – agreements, as well as the customary law existing between states and ignores what preceded and what follows the brith of an international agreement within the state organisation. At best it mentions through what legal mechanisms the state achieves the application of the international legal rules in the domestic law.

An illustrative example: in connection with the dissolution of the Austro-Hungarian monarchy and the emergence of the independent Czechoslovak state, the science of international law does not deal with the reasons for the First World War, with the gloomy Czech and Slovak history, nor with the political consequences of the dissolution. It is only interested in the conditions under which the assets, obligations and rights are transferred to Czechoslovakia, as to one of the successor states of the monarchy.

The other basic difference in the analysis of the relations between societies is that the theory of international relations pays great attention to the relations *between* non-state actors which appear in the international arena. The science of international law only deals with the legal relations between the subjects of international law. However, the subjects of international law can only be states, intergovernmental international organisations (there are no more than 450 of such in the entire world) and peoples. The contacts between the conventional organisations of the society and the economy, companies and social organisations (based on individual participation) theoretically are not the subjects of the science of international law.

Occasionally, legal science steps over its own frontiers and analyzes regulations which are not qualified as law like the 1975 Helsinki Final Act, the different codes of conduct for transnational corporations or the 1974 UN General Assembly documents about the new international economic order. Such regulations are usually described as soft law.[5] In this connection, the science of international law blends with the theory of international relations to such an extent that it is forced (and willing) to concentrate on factors which are on this side of the law and beyond the law: the political aims of states, the motivations of the political decision makers, the international economic order, the motivating interests, and the desired values and/or targets.

However, such impulses in legal science are exceptional. Usually the scholar analyzes the provisions of international law. Most international

legal works have no other aim than to interpret the text of agreements, the judgements formulating customary, law, scholar papers, and government documents.[6] It may eventually introduce the history of their origin, reformulate the provisions in an everyday – or scientific – language, and compare them to each other, with the prototypes and with the desired alternatives. *Thus, legal science regards the law, the provisions of law as its subjects.*[7] Deeds carried out in primary reality, the steps and omissions of the states are considered to be stemming from the law in the eyes of legal science. Whether the subject of the international law adheres to or violates the rule, the scholar of international law will aproach the conduct from the side of the rule. Only the birth of a a new rule as the subject of legal science is the exception: in this case, naturally, the attitude of the states concerning the birth of the agreement or customary law rule is the subject of research.

In contrast, the theory of international relations starts out from the activity of the actors in the international arena. It presumes that this activity contains regularly re-occurring elements: grasping these it wants to recognize and deduce the regularities. *While the science of international law asks: is the behavior in accordance with the legal regulation, the theory of international relations asks: can any regularity be deduced from the activity?*

A further difference between the two scientific branches is that the theory of international relations uses a number of categories – concerning primary reality although not tangibly present – which are not used by international legal science. Let us think about the terms „interest", „power", „aspiration", „value" and „motivation". The differences in the approach to primary reality lead us to the comparison of the applied method.

III. The method

The method refers to various things. Its first obvious meaning is: research technique. In this sphere, there is an enormous difference between the two scientific branches.[8] While the theory of international relations, at least since the appearance of the scientists, has applied the broad scale of empiric research techniques[9] in addition to the conventional hermeneutic and historic-dialectic approaches, the process and means of argumentation and proof do not differ from those of one hundred and fifty years ago in 90% of contemporary international legal literature. The most frequently applied method continues to be the category analysis. This is supplemented by reference to respected authors and respected judicial judgements.

The second meaning of the „method" covers more complicated things and refers to the approach to reality. In its every trend, the theory of international relations strives to describe and to systematize what it regards as reality. It is imaginable that a presumed connection proves not to pass the test of erudition, but – ignoring now the case of models – the theory of international relations always grasps primary reality. It

either generalizes from reality with the help of induction or reaches that through deduction. The science for international law – determined by the nature of international law – relies on fictions, it is composed from „as if" structures, namely, it takes something as a given fact although it knows it does not exist, or does not exist in such a way as the science puts it.

Let us see the most characteristic fictions!

The main one is which claims: the states are legally fully independent and sovereign. Every international jurist clearly sees the system of interdependence as well as the fact that the sovereign power of a government is far from being limitless over its territory and population. Nevertheless, law and legal science handles the states as if they could decide on their international relations, free from influence at any moment.

The second outstandingly important „as if" results from this. The science of international law regards the states as *subjects, as single units making rational decisions*. It was in vain that the theory of international relations illustrated that the state decision is not always rational, even using its own declared aims as a measure, and revealed that the leading bodies of a state also make contradictory decisions – the science of international law continues to keep in mind the image of a state that is consistent, trustworthy, foresighted, and circumspect, and avoids potential contradiction between its different decisions.[10]

The third major „as if" derives from the *confusion of norm and reality*. Legal science writes about the rules as if they were obeyed in life, as if the stipulations of the law would materialize in the relationships between states. Several thousand pages deal with the military sanctions and its conditions, etc., applicable against the aggressor state, decided by the UN Security Council. But the regular units – not the blue helmeted peace-keeping forces – through which the sanctions should be applied never existed because of the controversies of the major powers, despite the stipulations of the UN Charter. In a similar manner, the prohibition of the use of force and of all types of aggression, is an evergreen topic in legal science. This is the case when laymen usually lose their patience, saying what hypocrisy it is to deliberate about the banning of all types of aggression after 1945, under the shadow of 200 wars. Such a temper by the outstander is not well founded, not only because it is not willing to take into consideration the „as if" method of legal science, but also because it loses sight of the value-constitutive function of the science of international law. Value constitution is one of the functions of the science of international law, which is worthy of being observed within the full circles of the functions.

IV. Functions

When surveying the functions, fulfilled by the theory of international relations and the science of international law, the starting point should be that statements that in general outline the functions of the sciences, including the social sciences, refer to both disciplines – provided that we

accept the scientific character of these two fields. Thus, one can say that both embody the particular method of cognizance, and they are the creators and transmitters of systematized and accumulated knowledge, etc. However, it is more important to emphasize those functions, which highlight the connections and differences of these two fields.

It is very difficult tracing the particular functions of the science of international law. The first source of concern is the fact that international legal jurisprudence refers to international law, nourishes it and feeds from it. *The danger exists that the functions of law become mixed up with the functions of legal science.* The danger is increased by the wellknown phenomenon that the scholar of international law frequently acts as a lawyer in state employment, which raises the question: can the function of a social science be separated from the functions fulfilled by its scholars?

To illustrate the interwovenness, think of two African states on the Mediterranean coast which cannot agree how to delimit their continental shelf, rich in oil. They decide to take the case to the 15 judges of the International Court of Justice in The Hague. In this case, both African countries employ well-known international legal experts from developed Western countries, *in addition* to their own diplomats, naval and international legal experts. After the clashing of arguments and counter-arguments for years, the Court will deliver a judgement in which it does not accept the standpoint of either party, but passes judgement in a third manner about the delimitation of the continental shelves. (Some of the judges may not agree with the judgement of the Court and expound this in an individual opinion.) After issuing the judgement, the scientific public opinion from Minnesota through Moscow to Manila will publish a multitude of professional articles expounding why the standpoint of one or the other party and/or the judgement of the Court is incorrect.

The representative of the state is a scholar, so is the judge and the commentator. *Which represents – and practices – the science* and fulfils the functions of science? Let us not give a hasty answer, because perhaps there is none. For there is a snag: it is doubtful whether the dispute of the states has an unambiguous legal solution, which the science should recognize. If a sole correct legal solution exists, then that one will be the practitioner of the functions of science who plays a decisive role in finding it – in "recognizing the truth". However, it seems there is no sole correct legal solution. There is no guarantee that another 15 judges would reach the same decision in the same case. (Its the law unambiguous at all, if 8 from the acting judges approve and 7 disapprove a judgement?)

From the fact that the science of international law has no subject, which could be grasped with true or false statements, one can draw two conslusions:

- either that the science of international law is no science,
- or that the unbiased cognizance of the rules of international law and the solutions derived from them concerning the concrete situations, does not belong to its tasks. This means that the science

of international law is a type of science whose function is not the expression of true statements (knowledge).

The source of difficulty here is unambiguously the existence and state of international law. If we cast a side glance onto the theory of international relations, it immediately becomes conspicuous that the theory of international relations does not have to take the trouble over some system of rules or political norms. It can directly step to primary reality, to the actors in international relations and to their system of relations. In contrast to international law, no doubt emerges in the theory of international relations concerning the existence of the examined subject.

On the other hand, with regard to international law, it may be doubtful

- whether there is a rule
- what is formulated by the rule
- how a concrete case has to be solved, if the rules are given.

All these require that we should accept at least the above mentioned second conclusion[11] and *instead (beside?) the cognizance of the only and true legal judgement valid for disputed situations, we should search somewhere else for the functions of the science of international law.*

The functions of the science of international law spring from the relationship to law and can be separated into three groups:

- connected with the creation of law
- connected with a set of norms observed in themselves detached from concrete situations
- connected with the application of the law.

In the *creation of law* the science of international law has several roles. One is when it drafts norms opposing the existing legal rules. For example, in the 1950s international legal jurisprudence declared colonization illegal or in the 1970s elaborated the requirement of a new international economic order. In such cases, legal science can serve the interests of a country or a group of countries, which wish to take a new (more significant) position in international relations. In certain situations – for example, concerning the rules about the utilization of outer space or in connection with the protection of the environment – the science of international law can make itself independent from concrete and topical state interests, and with the interests of a larger community, for example, of humanity and the future generations in mind, it formulates what rules it regards as desirable.

The other role played in the creation of law is more prosaic and it is doubtful whether it still means the functioning of science. This is the case when the scholar of international law participates as the representative of his state in the wording of a bilateral or multilateral agreement. In such a case, the formula is unambiguous: his task is to promote the shaping of the political will into law; the scholar serves his country and its interests and not the science. Naturally, he has a retroaction onto the political will, because he will be the one who effectuates the particularities of law against the ideas of those who practice political power.

The role of the third type is the one when the science of international law declares the birth of a rule of customary law. The maturing of the rule of customary law is a long process, abounding in riddles and doubts. The confirmation of its completion and the description of the content of the customary law rule requires great expertise, not to mention initiatedness which is only possessed by the scholar of international law. In this role, science can operate in an impartial manner or as a servant – this is exactly why it could not be fitted into the previous two.

In connection with *existing international law*, the main function of the international legal jurisprudence is to expound the content of rules formulated in treaties, in customary law and in the principles. The essence of the norm, the conduct to be realized can hardly ever be read out from one or two provisions of the treaty. The content of any rule or expression can only be discovered after lengthy comparisons and a series of differentiations, following the comparison of the rule and ist context. In addition, the customary process of legal science is not that it turns a rule into a problem and then carries out the above, but the other way round, it takes an entirety of phenomena from life, formulates it as a problem, and then looks for the applicable rules.

When establishing the meaning of a rule, the international legal jurisprudence becomes confronted with questions that refer to itself as a science, to the permissible forms and methods of the conclusions.[12]

The result is that the science of international law gives a new definite shape to connections, which were already – although concealed – included in the rules of international law, and in the system of these rules. During this international legal jurisprudence has a more complicated function than the theory of international relations. While international relations theory has to span the difference between amorphous primary reality and systematized scientific reflection, the science of international law struggles between three poles: reality, legal reflection and scientific reflection. (If the attraction of reality is stronger: it becomes sociological, if the attraction of the legal material is stronger: it turns positivist.)

Take the example of agression. In answer to the question, what is qualified as aggression, the theory of international relations compares the categories and the facts (and either deduces or induces), however, in addition to these two, legal science is also compelled to analyze the relevant norms and in this respect it has a clearly distinguishable function. Naturally, an infinite line of questions about the function emerges, for now we can raise the question: what is the function of the law interpreting-analyzing function? In order to avoid the vicious circle of argumentation and platitudes, let us concentrate on the following element of the answer chain concerning the functions, by fixing that the analysis and interpretation of law aims at influencing the application of the law through certain transmissions.[13]

What is the function of the science of international law in the *application of the law* – that is in legal practice? The application of the law should be broadly conceived, so that it should include not only jurisdiction

– namely, the solution of concrete disputes based on the law – but all those situations in which an international entity, primarily the state decides whether it should act in accordance with the law or in a manner that violates the effective international law.

In this connection – with rough simplification – the scholar of international law can undertake two types of assignment:

– prior to the decision or following it, he announces whether the planned action is in accordance or in contradicition to the law, and what legal consequences will or may follow according to the scientific analysis of the law;

– following the decision he offers arguments for the use of the decision maker supporting or alleging the legality of the given decision.

These two roles remind us of the role of the judge, the commentator and the representatives of the parties in our earlier example. The judge and the commentator pass judgement on the concrete state decision, from the standpoint of the legal system as a whole, namely, of the international law as an objectivation developing from the encounter of various wills, but becoming independent from them. The scholar who makes up an ideology for the state deed, and the representative in the continental shelf example *uses* the arguments, ensured by legal science, for the legitimization of the state steps *thereby functioning* as means to promote the interests of the particular state. The previous function will be regarded as scientific by the majority of the science sociologists and the latter by the minority.

At this point, the process of thought reached the role of (value) measure of legal science. However, discussing it separately in the next chapter, let us return from the role of the scholar to science itself as a social process! It is a trivial but significant function of the science of international law to promote the application of international law, and to support international law in fulfilling its functions. (This can hardly be said about every science. Let us think about physics, or the science of history. The previous does not promote gravitation and the latter does not support the events.)

One should only answer the question what are the functions of international law? Regrettably, the science of international law is unable to provide an answer which would reflect consensus. Every scholar provides an individual list of functions.[14] There is no concord, because the appropriate level of approach cannot be clarified, because the conceptual framework, the paradigm within which the functions should be described cannot be provided. Some apply a history-philosophical framework, others use systems-tehoretical, still others work with normativist-descriptive tools, not to speak about the purely ideological statements about the functions of international law. Most of the thinkers reach an eclectic result. Here we should satisfy ourselves with a very general approach. Let us conceptualize the processes between the states and other entities of international law as communication. In the communicational scheme, a language is needed in which the parties formulate their messages, or in

this model: their requirements and the responses to them, or their offer of cooperation and its acceptance. Thus, international law appears as a language from the components of which the states build their messages to other states. They do not say: "I do not like if laser weapons are deployed in outer space", but they say: "The 1967 Space Treaty prohibits the military use of outer space". The message is the same, the language is different, and the situation is also somewhat different. One does not have to react to undefined political-power efforts, but to announcements outlined with sharp contours, which at the same time, define the limits of demand thus limiting the dispute to controllable size. The *science* of international law comes into this scheme in such a way that the science helps international law to function as a language: it creates and interprets the "words" of the language, the legal stipulations and their connections, namely, the legal system. It also contributes to the decoding of the messages by individual states and other entities of international law, namely, to the interpretation of their claims and actions.

Comparing the functions of the science of international law to those of the international relations theory one has to stress that international relations have not got *their own* objectivized system of norms, similar to international law, therefore, the theory of international relations cannot play a similar role to the science of international law. This is particularly conspicuous in our next topic, the value evaluation.

V. Value – Value Evaluation

It is a justified requirement that when writing about value it should be expressed what the author regards as value, However ,this remains unsatisfied in this essay because I do not know of any value definition with which I would agree without reservation. In fact, definition is not the main thing. It schould be sufficient that below – depending on the context – I will either speak about "objective" value (as for example humanism is usually conceived, or the accomplishment of the categories which express it)[15] or about subjective value notions, about a target preferred by the individual or social group, about a principle or something similar that appears as value.

Out of several possible evaluating relations let us concentrate on the following:

a) The two scientific branches can evaluate each other or themselves;
b) The scholar of international law and the scholar of the theory of international relations can evaluate international law or the actual behavior of states.

ad a) Bringing the protected values onto the surface or the demonstration of the evaluation presumptions, materialize during the struggle of schools. Let us think about the great dispute of the traditionalists and the "scientists" or the efforts in international law aimed at disclosing the genuine value preferences of the Myres McDougal school.[16] If we

want to grasp the situation in general announcements, it can be said that the theory of international relations is much more conscious in searching and pronouncing its value choices – and its own worth – than the science of international law. In the science of international law, legal positivism locks most research away from the evaluating approach. Only the above mentioned policy-orientated school of McDougal and the new natural law thinking are exceptions.

The image of the two scientific branches created about *each other* is the following: the theory of international relations hardly takes notice of the science of international law. In a similar manner, the mainstream of the science of international law ignores the existence of the theory of international relations in an aristocratic manner. However, the marginal trends within the international legal thinking apperceive the effects of one or the other school with unconditional enthusiasm.

ad b) The real value problem comes at this point. *The scholar of international law* – using his own personal value order as a measure – *can evaluate two separate things: international law and the behavior of states.* When he criticises the prevailing international law and demands something better instead – for example, a new international economic order instead of the existing one – then with more or less openness, he confronts his own subjective value order – which naturally could be the common value household of an entire social stratum or even of an entire nation – with the values objectivized in international law. The most difficult scientific problem occurs when the scholar of international law evaluates the behavior of a state and decides whether the act of the state was "correct" or "incorrect". For it seems obvious that in this evaluation he can only use a single measure: international law itself. If the state adhered to the law – it was correct, if not – it was incorrect, acting against the values. Obeying the law and violating the law concerns two aspects of value. *One is the value mounted in legal norms.* (E. g. sovereignty and everything which can be accomplished through it.) *The other is the obedience to law as a value.* The respect for the law is necessary for the operation of the law, therefore, the act of obedience to the law in itself – independently from which rule it concerns – is a type of (formal) value.

Therefore, the legal scholar finds himself in a very difficult situation, when he wants to encourage the state to violate the law – and through this to launch a painful process leading to the formation of a new legal regulation. In fact, he has to attack two values. In addition, the legal scholar cannot doubt one of them – the value of obedience to law – bona fide. However, if he renounces to refute a part of the prevailing legal order, then he unavoidably becomes conservative, for he defends the old, the existing one against the future one. This is characteristic of a large part of the science of international law.

In this train of thought, the next logical question is: *what values does international law carry that are used by the majority of legal scholars as a means in the evaluation of the behavior of states? Is it wrong if somebody is conservative – we can ask.* Can the legal scholar allow himself anything

else?[17] Reformism (not to speak about revolutionism) unavoidably attacks the prevailing law and the values embodied in them. Hence, what values does existing international law prefer?

Let us now disregard regional law, which only embraces countries of identical socio-political order, and let us concentrate on universal international law, which is equally obligatory for the capitalist, socialist and developing states!

László Valki demonstrated that the basic norms of universal international law "in fact defend the *prevailing status quo*". This means that from the point of view of the fundamental social controversies they are fully neutral.[18] Otherwise, they certainly do protect values, such as indepedence to be granted to colonial peoples, the unconditional prohibition of war or respect for human rights.[19] Nevertheless, the present international law after the decolonization primarily entrenches sovereignty. The prohibition of aggression, (the principles of non intervention and sovereign equality of states) all sanctify an international system constructed from independent, separate nation-states. It protects the political system of the states, notwithstanding whether it is conservative, social-democratic, or socialist.

Does international law protect values when it reflects and perpetuates the world segmented into states? Those who see in this the protection of the status quo, the preservation of peace and the avoidance of armed conflicts generated by the anarchy or by the ideological opposition will answer with a yes. However, those who see this as the guarantee of the structural superiority of the centre over the periphery will answer with a no.[20] Therefore, it is worth considering whether international law could function as the only measure of value by which the behaviour of states should be evaluated. This is particularly so in the light of the frequent criticism of the scholars in the developing countries. According to them, present general international law gives preference to the values of capitalist European civilisation over the culture of the developing countries, which is frequently of non-European origin, and also not unconditionally based on the principle of private property and individuality.[21]

This is the point when in the decision, whether international law is valuable (worthy), thus applicable as the measure of state behavior or not valuable, thus in the given case it should be shelved, the seemingly objective question will necessarily have a reply rooted in subjectivism. Therefore, we should stop here and outline what is factual, leaving everybody the opportunity to pass his own judgement.

The fact is that present universal international law basically protects a traditional structure. With slight restrictions, it ensures full powers for the state in its domestic affairs and organises inter-state relations according to the ideas of formal equality.

This formal equality is no less suitable to cover material inequality as is equality before the law within any society.

A last remark is needed here, spotlighting the difference in the evaluating situation of the scholars of international law and of international

relations. The scholar of international law has the objectivized international law as the value measure in the judgement of the states' behavior at his disposal. The scholar of law can cast away this measure if the is obliged by his subjective value choices. He can also keep it, led either by his belief in the values carried by the actual legal material or by legal conformism. The scholar of international relations has no souch value measuring means. Consequently, in evaluating the actions of states, he can only rely on his own value order. Thus, while the scholar of law can hold onto the law, if he does not want to immediately rely on his own subjectivity, the international relations scientist has no other starting point than his individual value order.

FOOTNOTES

[1] See Hedley Bull's famous study and J. D. Singer's answer (KNORR – ROSENAU). About the dispute see also (TAYLOR, pp. 13 – 14; MOLNÁR).

[2] This makes it possible that K. N. Waltz should dedicate the first chapter of his 1979 book „The theory of international policy" to what he regards as the scientifically justified law or rather theory. (Also see WALTZ, pp. 1 – 17.) Also see (BEHRENS – NOACK, pp. 12 – 21).

[3] András Sajó's 200 page critical thesis about legal science opens with the following sentence: „The final conclusion of the present paper is (in a somewhat summarized manner) that legal science is not a science." (SAJÓ p. 7) A similar standpoint is taken by David Kennedy (KENNEDY p. 356) with regard to the science of international law.

[4] A complete comparison requires inquiery into their history. The Hungarian version of this essay includes a chapter on the differences between the past of the two disciplines, but for the sake of brevity it had to be ommitted. See: NAGY pp. 71 – 75.

[5] For a detailed introduction to soft law see: (SEIDL – HOHENVELDERN).

[6] In fact this is an absurd task. For the essence of the interpretation is to „retranslate" the behavioral command, expressed in the professional (meta) language of of law into the much less precise natural (spoken) language. But the norm can only be made comprehensible for the layman if the precision necessary for its application becomes lost. Scientific interpretation can be a self-contradiction for another reason too. Frequently the rule of the international law is murky and ambiguous at the choice of the parties. Its creators span the actual difference of views in some partial area with a formal compromise. If the scholar commentator makes the text unambiguous then he misappropriates a part of the sense of the text.

[7] (HERCZEGH, p. 237).

[8] (HOFFMAN, pp. 150 – 151).

[9] (BEHRENS – NOACK, pp. 24 – 27).

[10] The codifications are illustrative examples for this. It is known in professional circles how much the text of a convention depends on the subjective ambitions of the creating persons, on their professional standard, on the venue of the conference, ranging to the level of the caffeteria, but mainly on the available span of time. Nevertheless, science handles these agreements as if they were concluded without time and physical constraints, at the end of an ideal process of negotiations by pure state wills.

[11] I am convinced that the more consistent solution is the negation of the scientific character of the science of international law, namely, the approval of the first conclusion. As in general introductions like this standpoints which radically differ from the public notion are usually not formulated, I continue my train of thought along the second alternative.

[12] The self reflexive character is escpecially strong in the case of international legal science. The critical evaluation of the scientific literature is more than a form of competition among the different schools or the formal proof of the scientific character of the given writing. Reflexion on earlier works is inevitable in discovering the rules of customary international law besides examining judgements of courts and diplomatic documents. That means that the subject of the scientific activity is buried in the products of previous activity.

[13] Such transmissions are:
- The results of legal science are built into the material of university tuition, thus influencing the outlook of future decisionmakers and law enforcers.
- The non-positivist branches of legal science reveal the value content of the legal rule, namely, whose interests the norms are protecting. With this, they ease the work of the decision-maker to compare the values carried by the law with the priorities declared in his policy.
- Legal science can clarify complicated legal situations with which it can provide arguments for the public or for certain social groups, with this strengthening control exercised by the general public over the attitude of the state towards international law.

[14] A few examples:

László Valki, 1981. (No literatim quotes):
1. The provision of the vital conditions for the ruling classes of the states and – subordinated to this – the provison of the vital conditions for the population.
2. The protection of the given social-economic-political system of every state and the decentralized system constructed from them, namely, the protection of the prevailing status quo.
3. The provision of the conditions for international production, trade and distribution through linking the national legal systems.
4. Setting up the conditions for human communication in the broad sense and cooperation between states.
5. The socialization of states through the transmission of political culture (e. g. human rights).
6. Ensuring the conditions for making and executing international decisions.
7. The promotion of the stability of international relations.
8. The promotion of the resolution of international conflicts. (VALKI, 1981, pp. 74–75)

László Valki, 1984.:
Identical with the above list, with the following changes:
- A new balancing function appears which can be described as: „Counterbalancing the grave assymetries in international power relations, and the formal denial of differences which leads to a material decrease of these differences which are the consequences of the unequal historic development of the states",
- Functions 4 and 5 of the above list are merged into a combined function.
- The stabilizing function (7) is extended with a reference to flexible adjustment.

Hanspeter Neuhold: 1983.
1. The delimitation of the territorial, personal, material, and time spheres of authority of the states.
2. The banning of attitudes considered non-desirable by all parties. In recent international law, active functions are added to this.
3. The protection of the earth's eco-system.
4. Functioning as a socio-economic instrument for change and for the Nort-South Dialogue

Gary L. Maris, 1983.:
1. The stabilization of values and expectations.
2. International and domestic communication.
3. The mobilization of public opinion.
4. Evaluation of state activity.
5. The provision of means for the short term and long term protection of interests.
6. Judicial settlement of disputes.
7. Setting up the norms which can be used in the resolution of conflicts. (MARIS, pp. 388–396)

GDR textbook, 1973.:
1. The protection and consolidation of peace.
2. Ensuring peaceful co-existence for states of different social systems.

3. Ensuring the right of self-determination for peoples and sovereign equality of states.
4. Promoting cooperation between equal states. (KRÖGER, p. 94).

[15] Such views were reflected, for example, by the opening address of Vilmos Peschka at an academic session. See Academy session on „Value and legal science", June 2, 1978. Állam- és Jogtudomány (1978) XXI/3. pp. 414–444.

[16] (NEUHOLD, p. 18; pp. 81–82).

[17] Attention, we are facing one of our usual lingual traps! The epithet "conservative" associates a negative value, as against which everybody would rather be liberal or progressive. But the question could have been formulated in another manner. "Is it incorrect if somebody respects traditions?" namely, the law!?

[18] (VALKI, 1984, p. 180).

[19] (VALKI. 1984, pp. 181–187).

[20] The principle of the prohibition of the use of force and the principle of sovereign equality will *not* be considered as a means serving the protection of peace by those, according to whom, the rivalry between nations and states is exactly the source of aggression and conflicts. In this approach, peace can (could) be ensured by setting up a world state, instead of the separate states, and/or by creating a self-governing society organised from much smaller units than the state.

[21] László Valki also came to the conclusion that international law is not suitable for a value measure. „The events of world politics and the actions of the individual states cannot be examined through the spectacles of international law. The normative approach to international relations leads to faulty value judgements" – he writes. However, it can be added that it is not an easy assignment to decide when a value judgement is „faulty". Perhaps it is as difficult as the passing of a „correct" value judgement.
For the standpoint of the Third World, see also
(NEUHOLD – HUMMER – SCHREUER, pp. 29–40,
particularly p. 40).

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Zusammenfassung

Die Studie vergleicht die Völkerrechtswissenschaft mit der Theorie der internationalen Beziehungen, um ihre Verschiedenheiten in Gegenstand, in den Methoden, in der Funktion und in der wertmessende Rolle betreffend zu zeigen.

Im Gegenstand der zwei Wissenschaftszweige gibt es einen bedeutenden Unterschied in der Größe der Aufmerksamkeit, die den supra- und subnationalen Teilnehmern gewidmet wird. Was die Methode betrifft, ist der Traditionalismus der Völkerrechtslehre auffallend. Die Ursache der Unterschiede in den Funktionen ist selbst das Völkerrecht: mit solchen Normensystemen braucht sich die Theorie der internationalen Beziehungen nicht zu beschäftigen. Gerade die Existenz der Rechtsnormen ist die Ursache der Verschiedenheiten in der Wertmessung: der Völkerrechtswissenschaftler kann – wenn er will – das Recht als Wertmaß benützen, aber der Experte der internationalen Beziehungen kann sich nur auf sein persönliches Urteil stützen.

РЕЗЮМЕ

Настоящая работа сопоставляет науку международного права с теорией международных связей, чтобы показать их различие в предмете, методе, функции и в оценочной роли.

В предмете этих научных областей существует значительная разница в том, какое внимание уделяется суб- и супранациональным участникам. В связи с методом очевиден традиционализм науки международного права. Источником разницы в функциях является международное право. Такими системами норм меория международных связей не должна заниматься. Именно существование правовых норм является причиной разницы в оценке: ученый международного права может – если хочет – употреблять право как измеритель ценности, а специалист международных связей может опираться только на свою оценку.