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E.H. Carr's Theory of Law: Exploring the Elements and Problems of International Law

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E.H. Carr's thought and approach to international relations have been the subject of several recent works. Though the insights offered by this new literature are extremely valuable, the lack of engagement with Carr's wider oeuvre—including *Britain: A Study of Foreign Policy from the Versailles Treaty to the Outbreak of War*, *Conditions of Peace*, *The New Society*, *Nationalism and After*, *History of the Soviet Union Series*, and articles—has inhibited the level of understanding we have gained of his thought. This paper offers a reinterpretation of Carr's theory of international law that challenges the prevailing arch-realist reading of his theory. It explores the distinct elements of Carr's thought on the limits and problems of international law, revealing his insights into the nature of international law and the ways in which it is affected by national interests and nationalism. Finally, this paper argues that this rarely tackled and misunderstood aspect of Carr's theory of international relations is clearly present in his works and that it provides a powerful commentary on the fundamental problems faced by international law.

La pensée et l'approche d'Edward Hallett Carr en relations internationales ont récemment fait l'objet de plusieurs travaux. Bien que les renseignements apportés par cette nouvelle littérature soient extrêmement précieux, le manque d'engagement avec l'ensemble de l'œuvre de M. Carr—notamment Britain, Conditions of Peace, The New Society, Nationalism and After, la série History of the Soviet Union et ses articles—habite le niveau de compréhension de sa pensée que nous avons acquis. Cet article propose une réinterprétation de la théorie de M. Carr sur le droit international pour remettre en question la lecture réaliste prééminente et dominante de sa théorie. Il s'intéresse aux éléments distincts de la pensée de M. Carr sur les limites et les problèmes du droit international, révélant ainsi ce qu'il nous a appris de la nature du droit international et des effets des intérêts nationaux et du nationalisme sur celui-ci. Enfin, l'article affirme que cet aspect rarement traité et mal compris de la théorie de M. Carr sur les relations internationales figure clairement dans ses œuvres et qu'il offre un commentaire puissant sur les problèmes fondamentaux auxquels est confronté le droit international.

El pensamiento y el enfoque de E. H. Carr en materia de relaciones internacionales han sido objeto de varios trabajos recientes. Aunque las ideas ofrecidas por esta nueva literatura son extremadamente valiosas, observamos una falta de compromiso con la obra más amplia de Carr—que incluye Britain (Gran Bretaña), Condiciones de paz, La nueva sociedad, Nationalism and After (Nacionalismo y después), la serie sobre la Historia de la Unión Soviética, y sus artículos—que ha inhibido el nivel de comprensión que hemos podido obtener de su pensamiento. Este artículo ofrece una reinterpretación de la teoría del derecho internacional de Carr que desafía a la lectura extremadamente realista que ha prevalecido de sus teorías. El artículo estudia los distintos elementos del pensamiento de Carr acerca de los límites y los problemas del derecho internacional, revelando sus ideas sobre la naturaleza del derecho internacional y sobre las formas en que este se ve afectado por los intereses nacionales y el nacionalismo. Por último, este artículo argumenta que este aspecto de la teoría de las relaciones internacionales de Carr, que ha sido abordado pocas veces y que ha permanecido incomprendido, está claramente presente en sus obras y proporciona un poderoso comentario sobre los problemas fundamentales a los que se enfrenta el derecho internacional.

Introduction

Though the value of E.H. Carr's thought in relation to international law may at first seem to be of little note, this is not the case.[1] The new wave of literature exploring Carr's further works has offered invaluable insights into previously unaddressed aspects of his thought. Cecilia Lynch and William E. Scheuerman represent two of the most prominent authors tackling Carr's thought on international law. Scheuerman (2010, 249) argues that classical realists "not only engaged extensively with proponents of radical global reform, but many of them advocated major alterations to the existing state system." For Lynch (1994, 628), however, Carr failed to understand the "historical move toward institutionalising international legal norms that restrain states' rights to engage in war and promote universalism and equality of status."

The contemporary relevance of Carr goes beyond that of mere historical importance. Carr's works, through their diplomatic and historical focus on international society, reveal the fundamental problems, questions, and issues surrounding international law.[2] Carr's thought is informed by a "consistent and compelling philosophy, one deferential to the basic insights of realism but unwilling to submit to the more dire implications of the doctrine" (Howe 1994, 277).

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[1]A number of critiques have addressed various elements of Carr's analysis of international law (Bull 1968–1969; Booth 1991; Hirst 1998).

[2]The lack of engagement with Carr's works beyond his *The Twenty Years' Crisis* and the erroneous view this has given us of his thought has been noted by a number of authors and has been an important point of discussion in recent literature on Carr (Wilson 2001; Molloy 2006; Smith 2017).

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His depth of thought with regard to international law is both striking and firmly entrenched in his works. It presents a useful counterpoint from which to examine the thought of theorists like Lauterpacht (Koskenniemi 2004, 409–10) and allows us to rethink "many of the increasingly tired clichés that dominate thinking about global-level change" (Scheuerman 2011, ix).

Carr develops a profound critique of the role that nations and nationalism play in international law. His realism defies easy classification, exceeds paradigmatic assumptions, and possesses a nuanced understanding of change that grasps the interplay of both power and morality (Howe 1994, 277; Jones 1998, 144–5; Kenealy and Kostagiannis 2013, 223–4; Ranford-Robinson 2013, 249). Carr provides insights into the nature of international law and the way in which national interests and the status quo play in it. His works, which directly engage with the works of contemporary legal theorists like Kelsen and Lauterpacht, reveal insights that are of fundamental importance when considering the limits of international law and that question the way in which his thought has been traditionally portrayed. These insights challenge approaches to international relations that are cynical about projects of global reform (Linklater 2000, 251–2; Scheuerman 2011, 76–81).

Carr's thought remains of key importance today. It raises questions about the structure of the international system and the "increasingly divided world we happen to be living in today," questioning whether nation-states are part of the problem or not (Cox 2021, xx–xxi). His thought, therefore, remains relevant if aims at considering and transcending the limits and problems encountered by international law in international society. These problems of law are still prominent today. Strategic competition and geopolitical tensions are frequently deemed to be the defining features of international politics in the twenty-first century (Sachs 2023, 10; Sakwa 2023, 264). Tensions between China, Russia, and the United States are also central to contemporary international relations debates. The decay of relations between the United States and China, heightened great power competition (Brix 2023, 182–4; Nurullayev and Papa 2023, 2; Scobell 2023, 79–99), and the painful blow the Russian invasion of Ukraine has dealt to the international order (Grunstein 2022, 136; Tellis 2022, 1–2) are prominent examples of these. Carr's analysis—in highlighting the relationship between international law, power, national interests, and nationalism—offers solutions that remain singularly important if aiming to understand these problems.

Throughout the following pages, this paper will examine the relevance and significance of Carr's analysis of international law. In order to bring Carr's complex and provocative thought on international law to light, it will examine his analysis and critique of international law as seen throughout his works. Building on the wave of classical realist revisionist literature, it will also challenge Carr's reputation as a paradigmatic realist.[3] This task is essential in order to unearth this misunderstood aspect of Carr's thought. Carr's theory of law will be examined thematically, following the common themes that can be found in his oeuvre. First, the paper will establish the role Carr's theory of history plays in his theory of law and its significance. Second, it will examine Carr's analysis of the nature of international law. Third, the paper will analyze Carr's analysis of international treaties and their problems, paying particular attention to their political origin, their static nature, and the *pacta sunt servanda* principle. Fourth, it will examine the role of nationalism in international law and, following this, the impact national interests and the idea of the status quo have on international law. Finally, the paper will bring these aspects of Carr's thought together and reveal their retained significance, which transcends the contemporary superficial understanding of his thought. In doing this, the paper establishes the unity of Carr's thought on international law and its continued relevance.

[3]A number of noteworthy publications have explored further dimensions of Carr's work (Howe 1994; Haslam 2000; Cox 2010; Parent and Baron 2011; Karkour 2021).

The Historical Bias of the Law

Carr's theory of history plays a significant role in his thought as a whole, as it offers additional evidence that his realism expresses both a critical mindset and a keen awareness of the relative and limited nature of human knowledge (Babik 2013, 499). This theory of history is intimately linked to his theory of international law, which is built around an understanding of history as a struggle between haves and have-nots and is conditioned by the social and economic circumstances of the times (Wilson 2009b, 21–25). It highlights the artificiality of Carr's standard disciplinary representation—particularly in relation to international law—making him emerge as a historian with an antipositivist conception of knowledge and a clear perception of history as theory (Parent and Baron 2011, 202; Babik 2013, 504).

Carr's theory of law, which is brightly aware of the historical biases that ultimately affect it, is linked to his theory of history. This theory of history offers a clear view into additional facets of his theory of law, particularly in relation to the conditions under which law is created. In arguing against a static view of history, Carr (1951a, 13) holds that any such view of history purporting to be recorded from a fixed point by a stationary observer is fallacious. Carr's theory of history is reminiscent of Morgenthau's (1970, 64) analysis of power and justice, which also illustrates this idea: We judge the world from the vantage point of our interests, and act as though "what we see everybody must see, and as though what we want is legitimate in the eyes of justice." History is a constantly moving process, and the historian moves along within it (Carr 1990b, 133). The creators of systems are not exempt from this rule: Their systems reflect the biases of the ones who constructed them (Carr 1951a, 11–12).

History without bias is a utopian ideal, which, so long as national passions persist, means that national bias will be one of the occupational diseases of the historian (Carr 1954b, 425; 1960, 845; 1961a, 691; 1961b, 733). Carr (1955, 697) also explores this bias through the historical conditions that give rise to revolutions, as, however universal their pretensions, they "are made in a specific material environment and by men reared in a specific national tradition." Laws are fundamentally affected by this historical bias: They reflect the conditions of the time during which they were made and require the observance of their history to be understood (Carr 1951a, 1). The historical bias, which affects the shape laws take, thus fundamentally impacts the law's pretension to establish rules on abstract principles.

Nowhere is this more visible than in international law. Carr (1986, 13) examines this point in relation to human rights, questioning how far the original conception of human rights is "still valid to-day, and how far, and for what reasons, it needs to be corrected or supplemented." Human rights, though in principle recognized for humanity as a whole, can only be discussed in the framework of the particular society to which an individual belongs

(Carr 1949b, 726). The liberal principles that gave rise to the peace settlement of 1919 are, for Carr (1953, 687), another key example of how historical bias affects international law. He surmises these principles in the following way: "they believed that rational man was master of his fate, and that no insoluble problems or insuperable barriers would arise to bar the triumphant march of mankind towards a fuller and better life," leading to a belief that "in this world the prospect of war held no place." These liberal principles fundamentally affected how the peace settlement appeared on paper, binding it to the conditions of the time during which it was made.

The implications that the historical bias of the law has on Carr's theory of law are far-reaching and affect his conception of international law as a whole. International tribunals do not just, like Lauterpacht argues, show reluctance to decide issues on grounds other than those of strict law because international law is more than loose conceptions of justice and equity: They are unable to find a "foothold in any agreed conception of equity or common sense or the good of the community" once they have left the solid ground of international law and legal rights (Carr 2016, 188–9). The historically bound nature of international law shapes the form in which treaties taken, fundamentally affecting them. Neither security nor peace can properly be made the object of policy. "International peace," Carr (1942, xxiii) writes, "cannot be achieved by the signing of pacts or covenants "outlawing" war any more than revolutions are prevented by making them illegal . . . The only stability attainable in human affairs is the stability of the spinning-top or the bicycle." It is only when the victors of a war can create the conditions for an orderly and progressive development of human society that peace and security can follow. Having established this foundational aspect of Carr's thought, which underpins his theory of law as a whole, the following section will now turn to his analysis of the nature of international law.

The Nature of International Law

International law is a fundamental element of Carr's thought. Instead of being ignored, it is addressed directly; particularly through its relationship with power and politics. "Politics and law," says Carr (2016, 165), "are indissolubly intertwined; for the relations of man to man in society which are the subject-matter of the one are the subject-matter of the other. Law, like politics, is a meeting place for ethics and power." The same is true of international law, which can have no existence except in so far as there is an international community that recognizes it as binding. International law, then, is a function of the political community of nations. Its defects are caused by the embryonic character of the community in which it functions rather than any technical shortcomings, leading it to be "necessarily weaker and poorer in content than the municipal law of a highly organized modern state" (165).

The relationship between law and politics profoundly affects international law. For Carr, power—much like for Schwarzenberger (1967, 21), for whom power "is the test which determines the place of sovereign States in the hierarchy of the international society"—is intimately linked to the workings of international law. A key aspect of this stems from the differences between international law and national law, which Carr (2016, 159–60) identifies as follows:

1) International law recognizes no competent court that can give decisions that are binding on the community as a whole.
2) International law has no agents that can enforce the observance of the law and relies on a right to self-help as opposed to the enforcement of a penalty by an agent of the law.
3) International law resembles the law of primitive communities due to how out of the two main sources of law–custom and legislation–international law knows only the former.

The confluence between Carr's position and that of Schwarzenberger here is notable. Though Carr does not, like Schwarzenberger, assail Kelsen's analogy between primitive and modern international law (Scheuerman 2012, 461), he also emphasizes its lack of a central and organized authority. It is its lack of an organized, centralized power that makes it unable to impose "its will on recalcitrant members of the international aristocracy" (Schwarzenberger 1962, 38). It is the embryonic character of the community in which it functions rather than international law in itself that makes it weaker and poorer in content than municipal law. The existence or lack thereof of an international society also plays a prominent role for Morgenthau (1956, 6), for whom "legal rules remain a dead letter" when deprived of their social context. The fundamental link between law and society also plays a prominent role, as Schuett (2021, 82) has shown in Kelsen's theory of law: "where there is society, there is law; where there is law, there is the state." Carr's emphasis on the lack of a central organized authority in international society is also akin to Manning's and Bull's in this regard (Wilson 2009a, 169).

The impact of these differences is significant. Exhortations to establish a rule of law, maintain international law and order, and defend international law assume that in doing and attempting to do so, "we shall transfer our differences from the turbulent political atmosphere of self-interest to the purer, serener air of impartial justice" (Carr 2016, 159). International treaties, however, lack an essential quality of law, whatever their scope and content: They are not "automatically and unconditionally applicable to all members of the community whether they assent to it or not" (Carr 2016, 160). This limits their impact considerably. It also further represents an area of convergence of Carr's and Morgenthau's thought: Legal rules and social functions in international law are always precarious, as they exist only by virtue of consensus among interested nations (Morgenthau 1953, 143–4).

The differences between international and national law do not, however, deprive international law of its legal character, as "the relation of law to politics will be found to be the same in the international as in the national sphere" (Carr 2016, 160). Carr's position in this respect is reminiscent to that of the English School on this point, for which international law "is a real body of law, no less binding than domestic law, and therefore no less deserving of the name 'law'" (Wilson 2009a, 167–8). For Carr, however, the differences between international and national law give rise to the following question: "Why is international law, and with it the rule that treaties must be kept, binding, and should they be regarded as binding at all?" (Carr 2016, 161). Schwarzenberger (1939, 61–62), in examining the function of international law, also echoes this question. International law is unable to answer this question alone. The answer must be sought in the relationship between law and politics and in the fact that international law requires a society within which it is operative (Carr 2016, 164).

It is notable that Carr associates these two positions in legal theory with legal positivism and natural law, equating

utopian thought to natural law and realist thought to legal positivism. Law, Carr (2016, 165) argues, "cannot be self-contained; for the obligation to obey it must always rest on something outside itself. It is neither self-creating nor self-applying." The fact that the obligation to obey the law must always rest on something outside itself links it to a capital shortcoming of the international community: The failure to secure the general acceptance of the postulate that the good of the whole takes precedence over the good of the part (147).

Carr's analysis of international law and its nature shows more nuance than traditionally imagined: It neither oversimplifies complex historical phenomena when creating the realist–idealist dichotomy nor when analyzing international legal standards (Lynch 1994, 594–5). Carr (2016, 148) links his analysis of international law to his critique of the doctrine of harmony of interests and the endemic discrimination members of the international community suffer due to their differences. Carr's conception of power in international politics—which he divides into military power, economic power, and power over opinion—is an essential element of this. Political judgments modify the facts on which they are passed, making political thought itself a form of political action. The relationship between political thought and political action carries with it questions of coercion, which Carr sees as answerable only through both utopia and reality. Booth (1991, 530–1) has also highlighted this otherwise misunderstood aspect of Carr's thought. "The utopian who dreams that it is possible to eliminate self-assertion from politics and to base a political system on morality alone," he argues, "is just as wide of the mark as the realist who believes that altruism is an illusion and that all political action is based on self-seeking" (Carr 2016, 92). In other words, the problem at the heart of international law is precisely the perceived dichotomy between these two extremes and attempts to choose either one or the other. This problem has a considerable impact on international treaties, to which the following section will now turn.

International Treaties

Carr identifies a number of problems that impact the role played by treaties in international law. The first fundamental problem relates to the underlying politics that led to their creation. Every system of law presupposes an initial political decision and exists within a necessary political background. Its ultimate authority derives from politics (Carr 2016, 166). This political origin has a prominent effect on international treaties, which also originate within a necessary political background. It is linked to the nature of international law, which makes treaties—independent of their scope and contents—lack an essential quality of law through their lack of automatic and unconditional applicability (160). The lack of automatic and unconditional applicability of treaties is further affected by the fallacy involved in presupposing that the interests of every state are the same (56). "It is the natural assumption of a prosperous and privileged class" with a dominant voice in the community, Carr (75) argues, to be "naturally prone to identify its interest with their own." This makes the supremacy of the privileged overwhelming enough so as to make its interests those of the community, as its well-being carries with it that of the other members of the community.

Principles, then, merely reflect different national policies framed to meet different conditions. The utopian, upon preaching the doctrine of harmony of interests, "is innocently and unconsciously . . . clothing his own interest in the guise of a universal interest for the purpose of imposing it on the rest of the world" (Carr 2016, 71). Just as in 1917, upon deciding on a policy of war with Germany, Wilson "proceeded to clothe that policy in the appropriate garment of righteousness," so did Briand "fearful of attempts made in the name of justice to disturb a peace settlement favourable to France" have no more difficulty "in finding the moral phraseology which fitted his policy" in 1928 (69–71). International treaties, then, are unconscious reflections of a particular interpretation of national interest at a particular time.[4]

The Soviet Union's approach toward disarmament in the interwar period illustrates this idea further. "As a weak country," Carr (1978, 450) notes, "Soviet Russia had the same interest as Germany in promoting the disarmament of the stronger Powers." In the year of Locarno, when "fear of hostile military action against the Soviet Union had become something more than a conventional bugbear," the question of disarmament became "the way to conjure this fear, either by persuading the western powers to disarm or by discrediting them for their failure to do so" (Carr 1978, 458). Soviet foreign policy combined peaceful intentions with vigorous assertions of the need for national defense (Carr 1976, 17). Litvinov "stole the limelight by putting forward a proposal for the total abolition of all military, naval and air armaments" at the Soviet Union's first appearance in the Preparatory Commission for Disarmament (Carr 1979, 174). Upon the next session in March 1928, Litvinov proposed a draft for total disarmament by stages. When this proposal was shelved too, he substituted it for an alternative draft for a limitation of armaments which "though less Utopian than its two predecessors, went far beyond anything contemplated by the western Powers" (Carr 1979, 174). The radical contents of these proposals in comparison to others under consideration at the time, as well as the motivations underlying them, thus reveal their national interest-oriented origin.

The fact that treaties are unconscious reflections of particular interpretations of national interests at a particular time fundamentally affects the role they can play in international society. This aspect of Carr's thought transcends the idea that "institutions cannot get states to stop behaving as short-term power maximizers" (Mearsheimer 1995, 82). Satisfied nations "generally assume that to maintain the *status quo* is the best way to maintain peace" (Carr 1939a, 98–99). By contrast, countries that are struggling to force their way into the dominant group will "naturally tend to invoke nationalism against the internationalism of the controlling Powers" (Carr 2016, 79). These national interests, Carr (2016, 174) argues, make the legal validity of treaties "a weapon used by the ruling nations to maintain their supremacy over weaker nations on whom the treaties have been imposed." The political origins of treaties, being impossible to avoid, are a fundamental problem in their nature.

The second problem that Carr identifies in relation to international treaties is that of their static nature, which makes their consistent application through time impossible. Any social order implies a large measure of standardization and, therefore, abstraction. There cannot be a different rule for every member of the community. The standardization implied by social orders is a problem when dealing with matters that have to be applied to states that vary considerably in size, power, and political, economic, and cultural development (Carr 2016, 29–30). Once it came to be believed that

[4] Koskenniemi (2006, 599) addresses this aspect of Carr's thought in relation to the sacrifices ethical systems can entail.

"the unruly flow of international politics could be canalized into a set of logically impregnable abstract formulae" the end of the League as an effective political instrument was in sight (31). Linguistic contortions encouraged the failure to distinguish between the world of abstract reason and the world of political reality.

The dilemma of international law is, then, that of ecclesiastical dogma. "Elastic interpretation adapted to diverse needs increases the number of the faithful," while rigid interpretation, "though theoretically desirable, provokes secessions from the church" (Carr 2016, 171).[5] The consistent application of a treaty throughout a period of time is a considerable challenge, particularly in areas of particular national interest, and leads to uncertainty concerning their enforcement: "every fresh extension of the battlefield alters in some degree the perspectives through which they are viewed and the policies designed to meet them" (Carr 1942, vii). Laws grow out of the conditions they are required to meet. In consequence, they can rarely be devised in advance to meet emergencies whose character is still unknown (Carr 1942, 153). There is, therefore, for Carr (1942, 164), a "kind of naïve arrogance in the assumption that the problem of the government of mankind . . . can be solved out of hand by some neat paper construction of a few simple-minded enthusiasts." Positive law, having grown out of the conditions it was required to meet, is unable to account for and meet emergencies whose character is unknown. The idea that a single treaty or legal formula can be applied without impinging on anyone's interests is, therefore, a "dangerous, if popular, illusion" that must be accounted for (Carr 1942, 166).

Carr explores the ways in which evolving political contexts can render legal treaties obsolete through the League of Nations' multiple attempts to abolish and annihilate war. The machinery of the League, Carr (1986, 22) argues, sometimes provided "discreet "formulae" to plaster over real cracks, thereby concealing both the seriousness and the character of the issues at stake." Disarmament was an excellent illustration of this, whereby "Repeated pious resolutions at Geneva about the desirability of disarmament . . . encouraged the world to forget that one, and only one, real question mattered in this field: the rearmament of Germany" (Carr 1986, 22). Carr differs prominently from Kelsen—who argued for the feasibility of dramatically strengthening international courts as a way to strengthen the global legal order—on this point and goes so far as to deem him utopian for entertaining this idea (Wilson 2000, 190–1; Scheuerman 2012, 459–60). International treaties and single legal formulae cannot change the fact that foreign policy will not cease to exist for those who possess power, as the only normal thing about politics and economics is that they are always moving on (Carr and Brooks 1940, 509; Carr 1942, 166).

Compliance is the third great problem of international treaties. Carr explores this through his critique of *pacta sunt servanda* in the interwar period, which he links to the issues the nonfulfillment of treaty obligations creates. Morgenthau (1934, 216–7) also explores the problematic aspects of the fundamental norm of *pacta sunt servanda* in his early works, where he argues that it cannot be the fundamental norm of international law due to the lack of a guarantor of international law. Writers during the interwar period, Carr (2016, 168–9) writes, attempted to treat this rule "not merely as a fundamental rule of international law, but as the cornerstone of international society." That Lauterpacht's analysis of the *pacta sunt servanda* principle is referenced as an example of this attitude specifically is significant (Carr 2016, 176n1). Attempts to treat *pacta sunt servanda* as the cornerstone of international society gave rise to a set of prominent issues in relation to the selective fulfillment of treaty obligations and had a considerable impact on the period.

Instances of noncompliance in the interwar period saw the states concerned defend themselves either by "denying that any breach of treaty obligations has occurred, or by alleging that the treaty had in the first instance been violated by the other party" (Carr 2016, 171). This made it difficult to discover from the words used whether the alleged justification was based on legal or moral grounds. The French Chamber of Deputies' refusal to carry out the French War debt agreement with the United States did so on the grounds that determining circumstances had changed since the conclusion of the agreement. Similarly, the British default on the Anglo-American debt agreement was justified on the grounds of economic necessity, holding on moral rather than legal grounds that the burden imposed by the agreement was unreasonable and inequitable (171–2). This was again the case in Germany's repudiation of the Versailles Treaty's military clauses in March 1935, wherein the action was justified on the "alleged failure of the other parties to the treaty to implement their own obligations to disarm" (172).

Problems of compliance were exacerbated by the elastic and inconsistent manner in which *pacta sunt servanda* was applied in practice. Despite repudiating their war debt agreements, the French and British governments vehemently insisted that "the disarmament clauses of the Versailles Treaty were legally binding on Germany, and could be revised only with the consent of the interested powers" (Carr 2016, 174). The flagrant violations of the Kellogg–Briand Pact committed by Japan and Italy after its signature—"the one thinly disguised as a police operation, the other, still more thinly, as a defensive war"—aggravated the inconsistent and elastic application of *pacta sunt servanda* further (Carr 1990a, 119–20).

Problems of noncompliance and the impossibility of imposing sanctions against the parties in breach fundamentally damaged the peace settlement itself (Carr 1990a, 215). Carr's analysis of compliance bears resemblance to Kelsen's critique of the Kellogg–Briand Pact, which robbed international law of its most important decentralized and juridified sanction mechanism—war (Schuett 2021, 100). Problems of compliance, together with the other two fundamental problems explored in the previous pages, for Carr, show how the element of power is inherent in every political treaty. These ideas have important implications in relation to international law, its limits, and its problems. The contents of treaties reflect the relative strength of the contracting parties. While strong parties will insist on the sanctity of treaties conducted by them, weaker states will renounce them as soon as the power position alters and they are able to reject or modify the obligation (Carr 2016, 174–5). Respect for law and treaties can only be maintained in so far as the law recognizes an effective political machinery through which it can itself be modified or superseded (Carr 2016, 176). It is here where nationalism comes to play a major role in Carr's theory of law, allowing it to transcend the caricatured impression of realism and of his thought that has dominated the literature.

[5]The analysis offered by Carr of the Allied policy on Stresemann illustrates the damage that this idea caused: "The external misfortunes which destroyed the liberalism of Stresemann began at Versailles. The hunters, having overpowered their quarry, tried to keep it 'in a small enclosure where it will be dangerous and bound to run amok'" (Carr 1939b, 182).

Nationalism

Throughout Carr's (1942, 39) works, nation and state—whether in relation to the apparatus of government or the field in which it works—refer to a unit of political power that plays an important role in his conception of international law. "Sovereign states," Carr (1948a, 72) writes, "are legal conventions between which no kind of equality exists or can be reasonably assumed." They are not only quantitatively unequal, but also qualitatively incomparable (Carr 1948a, 72–73). This inequality leads Carr to reject the idea that there can be genuinely common values between states in a hierarchically ordered international system, which makes claims to universality deeply problematic (Dunne 2000, 229). It makes the application of rights such as self-determination in international law practically inconsistent, as fixed standards of number and size for independent units vary from one place and period of history to another (Carr 1942, 48).

The inconsistency with which principles such as self-determination are applied exemplifies the prominent way in which nationalism and the inequality of states affect international law. Inequality of power impacts the ability of a country to retain a foreign policy of its own and be a Great Power (Carr 1946b, 585). The growth of military disparity between strong and weak powers after the First World War impacted the ability of countries to retain foreign policies of their own (Carr 1942, 53; 2021, 35). "International law, framed for days when munitions and military stores were the only contraband and neutrals traded freely with belligerents" was severely affected by the "change in spirit extended from the methods of war to its purposes" (Carr 2021, 26). War among socialized nations became an instrument for securing economic advantages from the victor and inflicting economic disabilities on the defeated, whereby wars were fought to a finish and the loser had no rights (Carr 2021, 26).

Carr's critique of Lauterpacht in *The Twenty Years' Crisis* is linked to his analysis of nationalism at large. The idea that the breakdown of the 1930s represented the failure of those who refused to make it work is, he argues, a meaningless evasion that does not account for its overwhelming causes (Carr 2016, 39). The deterioration of international relations in the interwar period, rather than being caused by "an unhappy incident or to the malevolence of a few men or a few nations," thus finds its origin in the modern idea of nations (Carr 2021, 26–27). Nationalism overrides the passion for agreement and tenacity shown by Geneva delegates when signing "protocols and resolutions in order to maintain at least the forms of agreement even where the substance was lacking" (Carr 2021, 26–27). It makes modern nations, by virtue of their nature and function, less capable than any other group in modern times of reaching agreement with one another (Carr 2021, 27). Nationalism is unable to create an international community of nations on the basis of international treaties and international law. One of the reasons for this relates to the loss of life, the risk of defeat in war, and the serious economic losses that the observance of international law can incur (Carr 2021, 29).

Carr's analysis of nationalism and its negative effect on international law shows how his thought transcends its reputation as the paradigm of realism. In *The Twenty Years' Crisis*, he relies on William Edward Hall's and Pearce Higgins' on the point of the legal conception of the personality of the state (Carr 2016, 153n3). Carr (2016, 179–80) relies on Lauterpacht when arguing that it is not the nature of an international dispute that makes it unfit for judicial settlement but the unwillingness of states to have it settled by the application of law is significant, particularly as he goes on to criticize Lauterpacht's utopian unwillingness to examine this issue further (Carr 2016, 189n3). His critique of the dangers of nationalism bears considerable similarities to Kelsen's exploration of nationalism, particularly in how it affects international law (Schuett 2021, 114–7). It also bears considerable similarities to Schwarzenberger's (1968, 191) analysis and critique of sovereignty and nationalism, which points out how the prevalence of sovereignty makes world organization a precarious international quasi-order.

Carr's writings contain a striking analysis of the "changing nature of the modern state and the possibility of new forms of political association" (Linklater 1997, 321). His critique of nationalism warns that we should beware the "siren calls of nationalism of nationalism or thinking we could find answers to the challenges facing humanity through the nation state" (Cox 2021, liv). Its commentary on the transitory and historically evolving character of nation-states is enormously significant in relation to the limits and problems of international law, and shows Carr's "recognition that the boundaries of moral and political community are not fixed and unalterable: these boundaries can expand just as they can contract" (Linklater 1997, 338).

The relevance of Carr's critique of nationalism and international law should, in light of the preceding pages, be clear. It is the lack of equality between states or the presence of a higher authority that, for Carr, makes international law an inadequate basis for achieving international morality (Molloy 2013, 264). Any international order built on the contingent obligations assumed by national governments is "an affair of lath and plaster and will crumble into dust as soon as pressure is placed upon it" (Carr 2021, 29). Carr's conclusion here is akin to Morgenthau's (1978, 286–7), who emphasizes how states marshal international law to the support of their particular international policies and apply it "in light of their particular and divergent conceptions of the national interest." International law, weakened by nationalism, becomes almost irrelevant except when it can be invoked to discredit an opponent (Carr 2021, 29). Nationalism, then, represents one of the fundamental elements and problems faced by international law. It is also, in turn, intimately linked with national interests, which will be explored in the following section.

National Interests, International Law, and the Status Quo

The impact of national interests in international law is, due to the role of nationalism in international society, unequivocal and features prominently in Carr's theory of law. The factors that make international law and cooperation between states challenging are not limited to Mearsheimer's (1994–1995, 12–13; 2014, 51–52) considerations about relative gains and cheating. Though Koskenniemi (2011, 99) has addressed this aspect of the realist critique of international law, arguing that the camouflage legal arguments give to political and economic power "is their very point," Carr's analysis of the role national interests play in international law reveals deeper facets of this concept and its impact. Carr's analysis of the role that the status quo and national interests play in international law does not glorify power. It instead indicates and highlights the need to understand it, exposing when the particular interests of the powerful are being cloaked in a way that corresponds rhetorically but not in fact to international morality (Karp 2008, 333). It aims, as Molloy (2021, 328) has shown, to transform international so-

ciety rather than—as is the case in both Mearsheimer's and Ikenberry's theories—to preserve the international order.

Carr identifies national interests as one of the foundational forces driving international relations and international law in the interwar period, with state security acting as its cornerstone. International affairs presuppose, Carr (1942, xv) argues, a "clash of interest between conservative Powers satisfied with the *status quo* and revolutionary Powers seeking to overthrow it." This idea—that is, the clash between status quo and revolutionary powers—fundamentally affects his analysis of international law in the interwar period. It was the "backward-looking view of the satisfied Powers" that made security be taken to be "best assured by putting back the clock, or at any rate by seeing that it did not move any further" (xi). This backward-looking view of security influenced the attitudes of countries toward new weaponry, which, in the case of the British and American General Staffs at the 1919 Peace Conference, included the aims to "abolish the submarine and to deprive Germany of military aviation" (xi).

International law is fundamentally affected by the clash of interests between conservative powers satisfied with the status quo and revolutionary powers seeking to overthrow it. Every attempt to strengthen the Covenant of the League of Nations meant another bulwark to uphold the status quo, with the Geneva Protocol being nothing more than the political counterpart of the Maginot Line (Carr 1942, xv). Movements supporting international change coming from dissatisfied powers were inevitably confronted by the vested interests of the status quo (xvi). This contributed to the ineffectiveness and sterility of the 1919 peace settlement, which failed due to the inability of its creators to "understand the contemporary revolution" (7).

Carr's analysis of interwar Soviet foreign policy further illustrates the prominent role national interests played in its international legal commitments. Carr (1952c, 67) considers Rapallo the "most conspicuous landmark in European diplomacy between Versailles and Locarno." The treaty, which was carefully shaded from any form of publicity on both sides, emerged into the open in April 1922 (Carr 1985, 361). Motivated by a "common fear of western powers, the makers of the Versailles system, and a common hostility to the Poles, now profiteers at the expense both of Russia and Germany," it lied at the heart of both Germany's and the Soviet Union's national interests and made the partnership of equal necessity to both (Carr 1949a, 4–5). Germany's later accession to the League of Nations and rapprochement with Western powers raised fundamental security issues for the Soviet Union. During the negotiations of Locarno, Chicherin—the Commissar for Foreign Affairs—remarked to the Soviet ambassador that "Russia needs Germany to rebuild her military power, and Germany needs Russia as an arsenal" (Carr 1978, 259). Cooperation between both countries was, at its heart, tied to their national interests and the dissatisfaction of both countries with the status quo.

Carr's analysis of interwar diplomacy, which expands on the effects of the national interest considerably, also bears resemblance to the English School's emphasis on the self-regarding behavior of states (Wilson 2009a, 171). France's quest for security was the most "important and persistent single factor in European affairs in the years following 1919" (Carr 1990a, 25). This quest for security determined its position on a number of issues of international law throughout the period, particularly in relation to its support of the terms of the Treaty of Versailles and its alliances with Poland, Czechoslovakia, and Yugoslavia. It became, as Carr (1990a, 42–43) argues, a French interest to support these three countries against rival powers and "even to save her friends from the inconvenience of a too rigorous interpretation of their obligations towards their minorities."

Carr does not, however, share Bull's focus on the fact that states often judge it is in their interests to conform to international law (Wilson 2009a, 173). His analysis of interwar diplomacy instead exposes the ways differing national interests will make allies disagree on international law. Britain's reluctance to see any one power dominate the continent of Europe contrasted with France's interest to support these countries. The destruction of the German fleet gave the British Empire a sense of perfect security. Furthermore, "Time-honoured British conceptions of fair play and chivalry to a beaten foe came into conflict with the legally precise French mind" (Carr 1990a, 50). These national interests and conceptions of its own security fundamentally affected Britain's interpretation of the Treaty of Versailles and its position on disarmament (Carr 1990a, 50).

These contrasting views of the aims and duties imposed by the Treaty of Versailles fundamentally affected disarmament negotiations in the period. The reply of France to every British proposal for disarmament was, Carr (1939a, 105) notes, "a counter-claim for increased security," and from 1922 onward, "France began to seek this additional security in special agreements designed to strengthen and make more precise the coercive articles of the Covenant." Carr develops this point extensively, particularly in relation to the discrepancy between the two aims of the League. Despite widespread enthusiasm for disarmament, successive British governments argued that Britain had already disarmed to the limit prescribed by the covenant. In France, however, where the League was prized as a bulwark of the status quo, there was little inclination to disarm when it was the preponderance of armaments that guaranteed security (105).

The impact that these differing national interests had—both in relation to disarmament and the workings of the League of Nations—was significant. The negotiations that preceded the Geneva Protocol are, for Carr, a particularly prominent example of this. France now had clients in Eastern and Central Europe whose safety had become part of its own: It required a general guarantee of additional security for both itself and its allies. Discussions in Geneva about disarmament gave an excellent opportunity for demanding this guarantee, whereby, if it were obtained, "French policy would have secured a notable success. If it were not obtained, France and her allies would admit no obligation to disarm" (Carr 1990a, 88).

The Locarno Treaties and the general quest for disarmament show the prominent role that national interests played in the creation and treatment of international law. Every time that the British or German Delegations reminded the League or its organs of the importance of Disarmament, "the French, Polish, and Little Entente Delegations harped no less emphatically on the need for security as a prior condition of disarmament" (Carr 1990a, 113). In a pseudonymous article, Carr remarks that despite France's sincere belief in the League of Nations, "her view of the League is not quite the same as that prevalent elsewhere" (Hallett 1930, 83). France's perception of the League of Nations impacted its collective security policies (Hallett 1933, 697–8; Carr 1937a, 201; 1937b, 282). Similarly, Carr explores the impact of national interests on a country's foreign policy, particularly in relation to a country's—in this case, Italy's—challenges to the international status quo (Carr 1935, 837; 1938, 1412; Martelli and Carr 1938, 956; Richmond and Carr 1938, 1290; Seton-Watson and Carr 1938, 1122).

The analysis that Carr conducts of the impact of national interests on international law during the interwar period is incisive. It is also, through its historical focus, more nuanced than Mearsheimer's (2014, 354). It is telling that, in relation to disarmament, the "lowest point consistent with national safety" agreed upon by the League was left to the discretion of individual governments, despite the awkward example set by the disarmament that had been imposed on Germany following the First World War (Carr 1939a, 104). Despite widespread enthusiasm, "successive British governments argued that Britain herself had already disarmed to the limit prescribed by the Covenant"; in France, however, "where the League was prized mainly as a bulwark of the *status quo*, there was little inclination to abandon the preponderance of armaments" (105). This discrepancy between the need for security and disarmament resulted in the deadlock of disarmament discussions within the period.

Carr's (1990a, 107–8) conclusion on Locarno reveals his thoughts on the role that national interests play in the development of international law: "Britain was ready to use military force in order to maintain a frontier which she regarded as vital to her own defence," but not "in order to maintain other frontiers." This aspect of British foreign policy is particularly ironic considering the professed fidelity to the Covenant as a whole. There is no reason, however, to suspect sarcasm in this and in other cases of professed fidelity to principles of international law. The fact that Carr grounds this argument in Schwarzenberger's works is significant and shows his reliance on contemporary legal literature (Carr 2016, 154n14). That Kelsen also points out that aggressors regularly justify their actions via legal instruments is also similarly noteworthy (Scheuerman 2012, 459). Here, national interests are linked to Carr's analysis of the discrimination inherent in international society. Politically, the "alleged community of interest in the maintenance of peace" is capitalized by a dominant nation or group of nations, becoming "a special vested interest of predominant Powers" (Carr 2016, 76). National interests defined the shape and form that international law and treaties took.

The significance of this aspect of Carr's thought can be seen through his treatment of Kelsen and Lauterpacht. Despite praising them for recognizing the fallacy that an international legal order based on the recognition, interpretation, and enforcement of existing rights can be an adequate provision for the peaceful settlement of international disputes, he argues they fall into a deeper one: Unwilling to recognize the political basis of legal systems, they unfeasibly dissolve politics into law and entrust them to tribunals, ignoring the conflict of interests disputes would be otherwise affected by (Carr 2016, 186–7). Carr's critique is, in this vein, akin to Herz's and Schwarzenberger's, who also argue against Kelsen's misleadingly legalistic interpretation of interstate violence (Scheuerman 2012, 461).

National interests play an unequivocal and unavoidable role in international law, with power playing a central role in foreign policy: "No machine will work without fuel; and power is the fuel which makes the political machine work" (Carr 1946a, 463). International law is limited by the diverging national interests of status quo and revolutionary powers. Neither morality, ideological aspirations, nor the victory of a revolutionary power can change this, as all states have the obligation to conduct "relations of some kind, whether friendly or hostile, with other states" (Carr 1955, 697). Countries are therefore limited in what they can aim to do in terms of international law due to its static and fixed nature. Having established this, the following section brings these separate aspects of Carr's thought together and highlights their significance.

Conclusion

To be sure, this paper is not alone in arguing for the continued relevance of Carr's thought. For instance, Mearsheimer (2005, 148) has linked Carr's relevance to the dangers competition between nuclear powers poses due to the continued preponderance of nuclear weapons. Carr's thought, however, as the previous pages of this paper have shown, transcends the traditional boundaries assigned to realist theory. Cox (2021, liv), Molloy (2021, 238–9), and Scheuerman (2010, 278) have illustrated these unexplored depths in their analyses of Carr and classical realism, highlighting how his thought warns of the rising tide of nationalism, is persistently in favor of progressive change, and remains indispensable if aiming to achieve a just political order. Building on this prior literature, this paper has challenged Carr's traditional caricaturization as a paradigmatic realist, established the unity of Carr's thought on international law, and argued that his theory of law shows more nuance than traditionally imagined. In doing this, the paper has sought to expand the current classical realist revisionist literature. It has done this by exploring Carr's analysis of international law thematically and by engaging with his works beyond *The Twenty Years' Crisis*, which have allowed it to bring Carr's complex and provocative thought on international law to light. Carr's realism is not merely, as Mearsheimer (2005, 140) has argued, manifest in his discussion of international law, where he makes it a vehicle of power.[6] Carr does not imagine international law exclusively as a competition for power. Instead, he examines the different problems surrounding international law—such as the static nature, political origins, and problems concerning the *pacta sunt servanda* principle of treaties, nationalism, and national interests—incisively through an antipositivist conception of knowledge and a clear perception of its historical biases.

What, however, is the contemporary relevance and significance of Carr's theory of law? The answer this paper gives to this question is in line with Cox's own. "The more we read Carr today and the ways in which he uncovered the limits of liberalism in his day," the more we discover "how much he has to say about our own, increasingly disturbed, world" (Cox 2010, 533). His thought retains its relevance vis-à-vis recent neorealist orthodoxy, despite its limitations and inevitable historical focus, through the questions it gives rise to and its proposed method (Jones 1998, 21). Carr's works highlight the relationship between international law, power, national interests, and nationalism: "Not a country in the world," Carr (1939a, 123) argues, "has allowed its attitude to be influenced in the minutest degree by its membership of the League or by its obligations under the Covenant." International law can only be fully followed if "those who have the power have also the will in the last resort" to "take and enforce with vigor and impartiality the decisions which they think right" (Carr 1942, 275).

Power is a prerequisite for this rather than a purely intellectual solution: Even Hitler, Carr (1948a, 57) argues, "tried to find a moral justification for what he was doing" and, in

[6] That Carr acknowledged that the first edition of *The Twenty Years' Crisis* exaggerated the role of power is noteworthy in this regard (Booth 1991, 532). Though the danger of neglecting power still existed, it was, to a considerable extent, overcome (Carr 2016, cxxi). Carr (1951b, 623) also notes this in a review of Schwarzenberger's works, where he argues that the reaction "against the illusions of the inter-war period has now gone far."

breaking treaties, he "frequently offered to conclude new treaties with the implication that he would consider himself morally bound to keep them." The forces of selfish interest and power are never absent from international law. The picture of a president in the White House or a prime minister in No. 10 Downing Street "hitching his wagon to the star of the loftiest morality and ignoring the balance of power between political forces in the country belongs to the world of pure fantasy" (Carr 1948a, 63). This, however, does not represent a glorification of power. Utopian ideas, for Carr, are dangerous "not because they are irrelevant, but because they are powerful. They can help make the world a better place, but they can also precipitate World Wars" (Karp 2008, 334).

International law is intertwined with both politics and law. The fact that international law lacks an effective community to develop common loyalties and a common stock of ideas makes it weaker than the municipal law of a highly organized state, with allies diverging in their interpretation of matters of law. International law is also, in turn, limited through nationalism and the diverging interests of status quo and revolutionary powers. Carr's theory of law bears startling similarities to Schwarzenberger's (1964, 24–25; 1970, 68)—who also points to the effects nationalism, national interests, and the embryonic nature of international society have on international law—in this respect. It also bears similarities to Manning's with regard to nationalism, power, morality, and national interests in international law (Wilson 2021, 19). The undisguised intrusion of power is "far more frequent, and the appeal to morality less likely to be listened to" (Carr 1948a, 66). Rather than represent the wickedness of states, the influence of power in international law is a matter of fact which makes every working concept of morality turn out to be tainted by power. No historical judgments are absolute, and any historical interpretation "depends in part on the values held by the historian, which will in turn reflect the values held by the age and society in which he lives" (Carr 1951a, 101).

International law, therefore, is fundamentally affected by both power and history. It is an institution that, despite purporting to make authoritative moral pronouncements, exists in space and time. It cannot free itself from them, and its pronouncements are inevitably colored by the conditions that gave rise to it (Carr 1948a, 66). The politics underpinning law are an essential matter to confront if aim to make international law effective. This conclusion stems from Carr's (1946c, 80) critique of the League of Nations, which "made fashionable a set of elaborate formulas that ingeniously concealed from the unwary the real motives of the negotiators" and can be seen throughout Carr's engagement with contemporary legal thinkers. Politics affects what international law can do and achieve, particularly in relation to international treaties, which are subject to national interests. The difficulty lies not in the lack of legal machinery but in the absence of a sufficiently well-integrated international political order (Carr 2016, 193–4). The dualism of politics keeps considerations of morality entangled with those of power, creating a morality that is ultimately convenient to itself (216).

Power fundamentally affects the application of abstract principles and laws, particularly in relation to national interests and nationalism.[7] The discrimination present in international society amongst nations, "accepted as a normal and legitimate principle of policy," represents the essence of foreign policy (Carr 1948a, 60). This discrimination makes a sham out of the idea that sovereign states that differ vastly in population, resources, and degree of effective independence "can be treated as equal for the purpose of building up a world order" (Carr 1948a, 62). This discrimination limits what international law can achieve in a world filled with nation-states. Carr's analysis, however, aims to envisage new forms of political community more universalistic and committed to reducing material inequalities than their predecessors (Linklater 2000, 234). The equality of opportunity demanded by social justice, rather than being independent of nations, can only be realized in a world that rejects the principle of discrimination on the grounds of nationality (Carr 2021, 57–58). The best hope for achieving this lies, Carr (2021, 61–62) argues, in a "balanced structure of international or multi-national groupings" for both the "maintenance of security and for the planned development of the economies" of geographical areas and groups of nations.

It is important to note that the solutions that Carr's thought offers to the different problems underlying and facing international law are ultimately optimistic. This optimism, which is evident throughout his works, has been widely noted in recent literature. Carr invites us to ask whether realists can be the architects of a utopia of their own or not (Elshtain 2008, 155). He is "one of the few realists—assuming the cap still fits—who senses significant changes afoot in the international system" (Howe 1994, 289). Booth (1991, 531) has also commented on this utopian aspect of Carr, noting how it has been normally ignored by realists due to the inconvenience of his utopian leanings. Scheuerman's (2011, 4) analysis of what he describes as progressive realism also offers a similar perspective on the fundamental nature of Carr's theory, critiquing the simplistic and caricatured impression of realism that has dominated the literature.

Carr's theory promotes the transformation of theory and practice and, through its dialectic of utopianism and realism, offers the possibility of social transformation and "restores to realism the emotional appear, a moral judgment, and human agency" (Molloy 2021, 328). His analysis of international law illustrates this amply. "Human beings," Carr (1952a, 102) writes, "obstinately refuse to accept as final the view that might is right, even when might masquerades as an intelligent appreciation of national interest." No society can live and function "under the constant obsession of its own impending dissolution" (Carr 1951a, 100). While we "may be utopian if we expect to attain our goal," we shall "indubitably fail if we have no goal ahead by which to set our course, or if we shrink from the difficulties and hardships that are encountered along the way" (Carr 1951a, 111–2).

Carr's (2016, 92) juxtaposition of power and morality makes his proffered solution clear: "It is as fatal in politics to ignore power as it is to ignore morality." Though Morgenthau (1948, 133–4) notably critiqued Carr on this point, deeming his attempted synthesis of power and morality a failure, Molloy's (2014, 468) examination of this aspect of Carr's thought should be borne in mind, and is particularly relevant. Carr's critique of the machinery of the League of Nations and its language points out its failure to distinguish between the world of abstract reason and that of political reality (Molloy 2021, 323). In seeking to uncover the deeper causes of international affairs, Carr did not aim to surrender to the immanence of power but to assess international politics through an empirically logical and systematic approach (Molloy 2003, 283–4).

[7]This is something that Carr (1939c, 522) also explores in his further work, particularly in relation to the ideal of self-determination and in a 1935 discussion on the possible future interactions between Britain and Italy in the Mediterranean (Carr 1935, 837). Some of the other forces that Carr (1948b, 3; 1950, 504; 1952b, 12; 1954a, 131) finds determine national interest and foreign policy relate to geography.

The dismissal of Carr's theory as that of a Machiavelli without *virtù* is, therefore, simplistic (Scheuerman 2011, 26; Molloy 2013, 270; Karkour 2021, 83). It dismisses the multifaceted aspects of his thought, mistaking it for his reputation as a paradigmatic realist. Carr does not just describe realism, but he also attacks it (Rich 2000, 199). His dissatisfaction with realism carries over to his treatment of international law, where he charts a middle course (Wilson 2013, 52–53). While the ideal cannot be institutionalized, nor the institution idealized, compromises remain both possible and desirable (Carr 2016, 94–95). The problems of law and international law Carr identifies, together with their solutions, remain relevant if aiming to understand and transcend the problems encountered by international law in international society today. Carr's theory of law does not argue for the nonexistence of international law or for its surrender to power. The shortcomings he identifies in relation to international law do not deprive it of the condition of law—particularly due to the fact that the relation of law to politics can be found "to be the same in the international as in the national sphere" (Carr 2016, 160). Respect for international treaties can be maintained "only in so far as the law recognizes effective political machinery through which it can itself be modified and superseded" (Carr 2016, 176). The solution to the problems underlying international law exists only, for Carr (2016, 176), in a "clear recognition of that play of political forces which is antecedent to all law."

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