One fundamental criticism of international law, frequently heard from realists, is that states can ignore it with more or less impunity. In this line of argument, international law is made by states for their own purposes and advantage. If states wish to break the law there is no proper authority or judge to prevent them from doing so or to punish them afterwards. However, major breaches of international law are relatively rare. States observe the law most of the time and most of it all of the time because it is convenient, profitable, and helpful to do so.\textsuperscript{1} States can break the rules with impunity but their reputation will suffer in the long term. In fact, those who do break or bend the law, make great effort to provide a legal justification for their questionable acts. The desire to justify acts on the basis of existing laws is a reaffirmation of their importance, even when these acts represent a violation. In this respect, much international law is normative in so far as it sets standards, building on what is already established practice to develop expectations of future behavior.

There is a habitual element of international relations, reflecting the practices and customs of state action, which has given rise to customary law.\textsuperscript{2} For instance, proportionality or the attempt to establish criteria for limiting the use of force, is a fundamental customary principle.\textsuperscript{3} Beneath these customs, or common shared practices of states, exists another level of fundamental principle, relating in particular to elementary humanitarian considerations. Some of these rest on pre-emptory norms (\textit{jus cogens}), or that from which there can be no derogation. Many laws of war, and within this the subset of international humanitarian law,\textsuperscript{4} can be placed in this category in so far as the fundamental aim has been to limit the cruelties and damage inflicted in armed conflict against specified opponents and to protect innocent victims. This is done, among others, by
drawing lines between “forms of attack that are permitted and forms that
are not, between weapons that may be used and weapons that may not.”5

The laws of war, and more specifically international humanitarian
law, can be distinguished from human rights law, although the two
increasingly overlap. While international humanitarian law applies
specifically to protection and rights in time of war and conflict, human
rights law is a body of norms to be implemented in general, both inside
and outside of war. Prior to the development of the latter, the relationship
between a state and its citizens was not understood to be a problem of
international law. As Hersch Lauterpacht stated, “The predominant the-
ory is clear and emphatic: International law is a law of states only and
exclusively. Individuals are only the objects of international law.”6

Summary execution, torture, arbitrary arrest, and detention beyond
national borders had only been significant legal events in the past if the
victims of these atrocities were citizens of another state, in which case
they were treated by international law as bearers, not of personal rights,
but of rights belonging to their government and ultimately to the state
which it represented.7 Since the end of the Second World War, human
rights law has been universalized and applies regardless of regional,
national, or other differences. It represents an ensemble of legal norms
that focus principally on protecting the individual against crimes
committed by the state.8

There is thus both a customary side to international law, on the one
hand, and a normative or moral side, on the other.9 The two together,
while sometimes in conflict, have contributed to a deepening of inter-
national law. As discussed in the last chapter, legal codification has often
been a response to problems arising from the increased destructiveness
of war. Sovereignty and nonintervention were a response to the bloody
Thirty Years’ War. The Hague and early Geneva Conventions were
a response to the increasing destructiveness of war in the nineteenth
century and the First World War. The expansion of the Geneva Conven-
tions and the development of human rights law were responses to the
atrocities of the Second World War and the Holocaust.

These different bodies of international law, like Just War theory, are
forms of intervention in so far as they seek to shape and limit the
experience of war. Both stand outside any particular conflict and pro-
vide objective standards for judging behavior. The two differ, at least
theoretically, in the relationship between judgment and enforcement.
While Just War theory has provided a framework for judging the moral
legitimacy of particular wars and the means by which they are fought,
international law, like law more generally, is a formal mechanism