

Revue québécoise de droit international
Quebec Journal of International Law
Revista quebequense de derecho internacional



SHIRLEY V. SCOTT, *INTERNATIONAL LAW IN WORLD POLITICS: AN INTRODUCTION* (BOULDER, COLO.: LYNNE RIENNER PUBLISHERS, 2004)

Richard E. Freeman, III

Volume 17, Number 2, 2004

URI: <https://id.erudit.org/iderudit/1069264ar>

DOI: <https://doi.org/10.7202/1069264ar>

[See table of contents](#)

Publisher(s)

Société québécoise de droit international

ISSN

0828-9999 (print)

2561-6994 (digital)

[Explore this journal](#)

Cite this review

Freeman, R. E. (2004). Review of [SHIRLEY V. SCOTT, *INTERNATIONAL LAW IN WORLD POLITICS: AN INTRODUCTION* (BOULDER, COLO.: LYNNE RIENNER PUBLISHERS, 2004)]. *Revue québécoise de droit international / Quebec Journal of International Law / Revista quebequense de derecho internacional*, 17(2), 291–293. <https://doi.org/10.7202/1069264ar>

Tous droits réservés © Société québécoise de droit international, 2004

This document is protected by copyright law. Use of the services of Érudit (including reproduction) is subject to its terms and conditions, which can be viewed online.

<https://apropos.erudit.org/en/users/policy-on-use/>

érudit

This article is disseminated and preserved by Érudit.

Érudit is a non-profit inter-university consortium of the Université de Montréal, Université Laval, and the Université du Québec à Montréal. Its mission is to promote and disseminate research.

<https://www.erudit.org/en/>

**SHIRLEY V. SCOTT, *INTERNATIONAL LAW IN WORLD
POLITICS: AN INTRODUCTION* (BOULDER, COLO.:
LYNNE RIENNER PUBLISHERS, 2004)**

*By Richard E. Freeman III**

Shirley V. Scott's recent work, *International Law in World Politics: An Introduction*¹, presents the reader with a structured and balanced treatment of the symbiosis between international law and politics, as well as a theoretical and practical survey of international law's fundamental principles and major disciplines. Scott, who is a senior lecturer in international relations at the University of New South Wales, organizes each chapter as part of an overarching and cohesive whole. The outline begins by building a solid basis in international law through a discussion of its main sources and actors, and through an analysis of the system's logical composition. After establishing a foundation, Scott then moves on to examine the creation of legal arguments and multilateral treaty regimes. This provides a segue to the remaining chapters of the piece, which effort to give the reader insight into the specific international legal fields of arms control, international environmental law, international human rights law and international humanitarian law. The result is a well constructed introductory text to what can be, at times, a cumbersome and unwieldy subject.

Scott begins her work by laying down some of the basic building blocks of international law, briefly addressing how it is most often forged, in terms of treaty and custom, while distinguishing it from the often legislative and judicially driven systems of domestic law. In setting up a background to the international legal framework, Scott focuses on establishing international law as an autonomous entity but, at the same time, as an integral and inseparable part of the global political system.

The text then moves to discuss the primary actors that fuel the creation and continued existence of international law. The reader is presented with the historical background leading to the creation and recognition of the modern state. Described as the most important actors in both international law and world politics, states are also analyzed within terms of sovereignty and with respect to jurisdiction. The work then delves into the role of Intergovernmental Organizations (IGOs). Because of its overwhelming importance, a discussion of the United Nations and a subsequent analysis of its principal organs and specialized agencies serves as the major focus in the text's discourse on this topic. Apart the Security Council and General Assembly, the International Court of Justice (ICJ), in particular, is given a sizeable amount of attention. The ICJ's role of issuing decisions, advisory opinions and creating and clarifying international law are presented in depth. Public interest NGOs and the influence they can exude on the international legal system usher in the discourse on

* Candidate for J.D., Brooklyn Law School.

¹ Shirley V. Scott, *International Law in World Politics: An Introduction* (Boulder, Colo.: Lynne Rienner Publishers, 2004).

non-state actors. Diplomats and their impact on the international legal community are also considered, rounding out the discussion on the major actors in international law.

Having put forth the major international law players, Scott then fleshes out the structure of this field. This structure is visually represented as a pyramid, with the theoretical underpinnings of international law comprising the base, the source and operation of international law making up the middle tier and substantive international law comprising the upper tier. International law is first looked at through a theoretical lens. While a background in natural law is presented, special attention is given to the theory of positivism, which retains importance through the remainder of Scott's writing. Using the ICJ as an example, the text then delves into the operation of international law. A discussion of the various ways the ICJ can obtain jurisdiction helps to further this analysis. Finally, the link between international law and world politics is once again highlighted when substantive issues are addressed in the third and final tier of the pyramid.

Scott's discussion of positivism continues in the subsequent chapter, which deals with the formation of an international legal argument. Specifically, the text explains how a legal positivist might combine elements from the three tiered pyramid previously mentioned and use this as a means through which to interact with the various actors in world politics. This abstract concept is made more concrete by means of an example concerning NATO's actions against the Federal Republic of Yugoslavia in March 1999. The example provides readers with a sense of how international lawyers argue both sides of a possible controversy and how arguments can be made in a legal positivist framework. In turn, this supplies an appropriate segue for the text to debunk what may be referred to as the "rule book" image often associated with international law. Examples of this "rule book" image are represented in ideas such as international law being politically neutral and treating all states equal, as well as the idea that it is compulsory for states to comply with international law. Developments to classify international law as something other than a "rule book" are then discussed through the presentation of the ideas of various scholars such as critical theorists, third world critics, feminists, and indigenous writers. The inclusion of these varied theories demonstrates Scott's balanced approach to the subject matter, something which is notably present throughout the text.

Having established a working background in international legal theory as well as the structure of international law, Scott brings the reader to more practical territory by highlighting the various components of a multilateral treaty. Relevant definitions and terms of art are interspersed in the discussion, allowing for better understanding of the material. An idea of the political process behind the forging of multilateral treaties is shown through the example of the *Antarctic Treaty*², which in itself serves as a transition point to discuss the life cycle of a multilateral treaty regime. The regime is addressed in four principal phases, that being the pretreaty phase, treaty finalization, operation of the treaty regime, and the potential for supplementation of the treaty regime. These four phases are further understood

² *Antarctic Treaty*, 1 December 1959, 402 U.N.T.S. 71 (entered into force 23 June 1961).

through a discourse on the influence exerted by less developing countries, middle states, superpowers and nonstate actors on the life cycle of the regime.

The structure of the text changes for the next few chapters, as the reader is presented with particular disciplines within international law, as well as a history and discussion of the major multilateral treaties within each discipline. The subfields of international law that are discussed are arms control, international human rights law, international humanitarian law and international environmental law. While the text only presents a microcosm of each subject area, it manages to present the fundamental challenges each area has met and must continue to meet, quite well. It is here that the reader finds many of the abstract ideas and theories of earlier chapters fleshed out.

The text concludes with a summary of the five themes that currently embody the system of international law. These themes become more accessible as Scott ends by presenting the reader with a few questions about international law's future.