

World Order from Birmingham Jail

Ian Hurd

In prison in Alabama in 1963, Martin Luther King Jr. wrote an essay about the tangle among law, order, and justice. It was grounded in his immediate circumstance: in jail for leading a protest without a permit, King wrote on smuggled scraps of paper as “white moderates” on the outside complained that his tactics were undermining “law and order and common sense.”¹ A central theme of “Letter from Birmingham Jail” is how the raw materials of laws, rules, and government can be arranged to form a decent social order, and what to do when they are not.

These are also key issues in international relations (IR), central to countless debates about international order and disorder. While King’s themes are familiar to IR scholars, the implications he draws, and the practical mode of reasoning he uses, contradict some of the standard IR analyses on the subject. The gap between King’s politically sensitive account of the relation between order and law and the apolitical model of order in IR reveals how exceptionally narrow the framing of order has become in scholarly discourse on international law and governance.

In the IR discipline, it is generally understood to be the case that order is under-supplied in a system of sovereign states. Many IR scholars therefore see an urgent need to create order, and the discipline is oriented toward learning how this can be done. G. John Ikenberry says that “the fundamental problem of international politics” is “how to create and maintain order in a world of sovereign states.”² Terry Halliday and Greg Shaffer say that international governance aims “to produce some order out of chaos, anarchy, unpredictability, or irregularity.”³ Actors that work to undermine order are seen as a threat: they are labeled as rogue states,

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Ethics & International Affairs, 38, no. 2 (2024), pp. 152–161.

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doi:10.1017/S0892679424000194

terrorists, or agents of chaos. In the “world-order common sense” of IR, it goes without saying that order is a desirable good and that more of it is preferable to less. The only thing left to argue about is the relative merit of competing schemes to make and reinforce order.

King’s essay shows what lies outside of this common sense. He gives reason to doubt that order is always better than its opposite, and that law and governance are naturally aligned with order. He conceives of order as a political relationship rather than a mechanical arrangement of parts, and he shows that it matters a lot whose idea of order is being enacted. This is important for IR because it directs attention to the contested politics of world order. It provides tools to make sense of the competing stories about “international order” that are found in debates between realists and liberals, and also between Moscow and Washington. Diverse notions of order each bring their own ontology, methods, and political implications. Reading King helps chart a strand of thinking about social order that is largely absent from IR. With this analysis in hand, I extrapolate implications for choices in global scholarship on order and disorder.

SOCIAL ORDER FROM BIRMINGHAM JAIL

“Letter from Birmingham Jail” is best known for its defense of civil disobedience. When laws are unjust, King says, people should undermine them rather respect them. He called this adding tension to the status quo. “Nonviolent direct action seeks to create such a crisis and foster such a tension that a community which has consistently refused to negotiate is forced to confront the issue.”⁴

The concept of “tension” is central. He uses it to mean both a tool for disrupting the status quo and a kind of conceptual alternative to the idea of order. Tension involves disrupting society. It is the wrench thrown into the machinery of society for the express purposes of making it less orderly. Tension is intentionally disordering.

King writes directly to the white moderates, whom he says endorse desegregation in principle but oppose tactics like sit-ins, protests, and boycotts as the means to get there. These tactics are designed to impede daily life by making it harder to do simple things like ride the bus, walk down the street, or go shopping. This is tension. The goal is to disrupt the smooth functioning of the existing social order so that something else might take its place. “There is a type of constructive,

nonviolent tension which is necessary for growth,” King writes.⁵ The pursuit of order, for him, sometimes requires actively pursuing its opposite.

King’s idealization of Christian natural law provides him with the criterion to decide when disorder is justified over order: he says, “How does one determine whether a law is just or unjust? A just law is a man made code that squares with the moral law or the law of God.”⁶ My interest is not in his particular scheme of justice but rather in the logic that leads him to the conclusion that sometimes what society needs is *disorder* rather than more order. I am interested in this conclusion because it highlights a blind spot in conversations about global governance: when IR writers bring up disorder, it is typically used to show the costs and dangers that could follow if ordering projects are allowed to fail. King takes direct aim at the assumption that order is always more desirable than disorder. He faults the white moderates for taking this view, and one imagines he might make the same complaint about IR scholarship that lobbies for international order without first inquiring into the politics embedded in that order.

IR debates about international order typically begin with three premises: first, that order is a patterned arrangement of the parts of the international “system” that, like the gears of a machine, might be organized well (and thus lead to order) or poorly (in which case the result is disorder);⁷ second, that compliance with laws, norms, and regulations contributes to order;⁸ and finally that order is better than disorder in moral, political, or welfare terms.⁹ King gives reason to doubt each of these assumptions.

ORDER: PATTERN OR PATTERN PLUS SOCIAL PURPOSE?

What do “order” and “disorder” mean in international affairs? The terms are crucial in IR discourse, but they are rarely defined with much precision. King can help. He sees order in two ways: it can mean the settled patterns of life that constitute the status quo, and it can mean a substantive account of society and its political values. The power of his argument comes from the difference between the two in the context of American racial segregation.

King acknowledges that there is a kind of order in Jim Crow America. It exhibits patterns and predictability and makes possible a certain kind of social life. It is orderly in the sense that it is an arrangement of social forces that generates patterned effects. In an empirical, behaviorist sense, it qualifies as order because

it exhibits regularity in society. Scholars might study how it is reproduced—through law, violence, and social power—and how its machinery works.

But King says that the violence that sustains this order indicates that it lacks something essential in the idea of social order. He puts the word order in scare quotes: “order.” When referring to the situation in Alabama, it is order only in the mechanical sense of connecting causes to effects. A meaningful political order, he implies, requires an enactment of political values that offers equality, decency, and respect for all its citizens. A “real” social order is the goal, and direct action (that is, tension) is one tool to achieve it. He compares the simple, mechanical (and unjust) order of the status quo in Alabama to “dangerously structured dams that block the flow of social progress.”¹⁰

This difference neatly maps two schools of thought on international order in IR: “order as patterns” and “order as social purpose.” The first is captured in Bentley Allan’s definition of international order as “stable patterns of behavior and relations among states and other international associations.”¹¹ This is the behavioral approach to international order, which sees order in the same way that an astronomer might see the order in the transit of objects in the sky: a system is orderly when it displays predictable patterns that result from underlying forces acting on the objects. E. H. Carr took this position when he said that politics and indeed life are “merely complex cases of mechanical causation.”¹² The opposite in this case is randomness, chaos, or patternlessness.

By contrast, Hedley Bull argued that the important feature of political order is not the pattern but the fact that the pattern sustains desirable political goals or social values. “When we speak of order as opposed to disorder in social life we have in mind not any pattern or methodical arrangement among social phenomena, but a pattern of a particular sort. . . . an arrangement of social life such that it promotes certain goals or values.”¹³ A regularity is not worth the label “order” unless it leads to outcomes that are valued by society. This adds political content to the mere behavioral fact of regularity, in the sense that we can expect people to have diverse views of the normative issues that make up the goals and values of society.

Both approaches, mere regularity and pattern with social purpose, are evident in IR literature. However, they lead to different kinds of research and different interpretations of empirical phenomena. A scholar might, for instance, wonder about the pattern of great-power wars across history and see a kind of order in their recurrence, as Kenneth Waltz and others do when looking for underlying

forces of balancing, threat, and alliances that they believe are responsible for patterns of war and peace. Or one might see great-power wars as evidence of the breakdown of international order because they seem to run counter to basic human goals of peace and welfare, as Hedley Bull does. War might be evidence of international order or of its opposite depending on whether order means regularity or pattern with purpose.

The two approaches cannot be combined. Muddling them leads to scholarly disappointment because they rest on different ontologies that require different methods of research. A scholar interested in patterns in international affairs might, like Bruce Russett, trawl history for evidence of correlations—in Russett's case, between regime type and propensity for war.¹⁴ Such a person will need the confidence that the categories they are using and the forces that govern them are objective and consistent across time and place. They will likely refrain from making value judgments as they measure order and disorder and search for their causes. Like the astronomers, the scientifically minded IR scholar aims to document objective features of the world.

By contrast, value judgments are integral to the political approach to order. The existence of order is predicated on its effects, specifically on its capacity to sustain the elemental needs of society itself. The concept of order itself incorporates a substantive theory about what makes for a decent society. For Bull, this includes limits on war, trust in treaties and law, and stable borders; for King, it might be phrased as human rights, equality in law, and respect for individuals. People will disagree about these values and therefore may disagree about when society can be coded as ordered or not. The racialized order of Jim Crow in America advanced some political goals, but not universal human rights and respect. A Russian-led international order will advance different political goals than an American one.

LAW AND/OR ORDER

King also gives reason to think again about the role of international law in international order. A characteristic feature of liberal-internationalist scholarship is the conviction that law and compliance with it are important markers of a well-functioning international order. Seen through King's lens, where segregation through law is the problem to be overcome, this starts to look fishy.

King says that law is crucial for social order but also that governments often work hard to enforce unjust laws. Compliance and noncompliance with law

thus occupies much of King's thinking in "Letter from Birmingham Jail." Compliance with law might be the foundation of society but it can also reproduce injustice. He defends lawbreaking when it serves the cause of justice but also says that unjust laws do not count as laws and so ignoring them is not actually lawbreaking. Either way, unjust laws do not deserve compliance.

IR scholarship is surprisingly monolithic about the virtues of complying with international law. Lawbreaking is almost always treated as an undesirable development—it is dangerous because it allows a behavior that should be prohibited and also because it might harm the rule of law as a general principle.¹⁵ Indeed, scholars often bundle legal compliance into the definition of order, as when Stephen Kocs says that international order means "the presence of rules or arrangements that enable actors to protect their interests."¹⁶ Further, the level of compliance with law is often used as an indicator for measuring order in the system.¹⁷ Harold Koh's theory of international law is an explanation for how governments can be induced to shift from "grudging compliance with global norms into habitual obedience."¹⁸ In this framing, obedience is said to be the foundation of order. Scholars and practitioners work together to increase the rate of compliance with international rules.

This is unfortunate since it erases the possibility of the kind of political reordering of social life that concerns King. There is silence in the literature in precisely the place where King wants a conversation: What to do when law makes the world worse rather than better? If we disenchant our view of international law,¹⁹ so that we no longer assume that the rules are naturally good and that following them is the right policy choice, then we can think along with King about the political effects of choosing to comply with these rules.

A central point of the "Letter" is that being law abiding in a system of unjust laws is no virtue. He specifically calls out the "white moderates" who "commended the Birmingham police force for keeping 'order' and 'preventing violence'" when confronting illegal protests. These people, he says, prefer "a negative peace which is the absence of tension to a positive peace which is the presence of justice." Some laws deserve to be broken. Indeed, they should be broken flamboyantly, out in public, with fanfare: "openly, lovingly, and with a willingness to accept the penalty."²⁰

In this light, the presumption in IR that compliance with international law is necessarily a step toward international order is insufficient. I suspect that IR scholars who endorse this generalization are following the implicit idea that the alternative is worse—perhaps disorder or chaos or brute force.²¹ International order

talk is a discourse of anxiety as much as it is a blueprint of good governance. The critical eye that sees law and order in domestic contexts as coded with power structures of race and class somehow finds it possible to read *international* law and order as cooperation and progress.²²

IR could learn from King on this. King calls for considering the effects and the origin of the law before deciding whether compliance with the law is the right choice. IR scholars might do the same. This might involve looking at how international rules distribute gains and costs before endorsing compliance over violation. This requires political judgment and an openness to the possibility that compliance may be the wrong answer. Judith Shklar reminds us that it is a mistake to assume that the lawfulness of an act is the same as its rightfulness. This is the trap that she labeled “legalism.”²³

DO WE WANT MORE INTERNATIONAL ORDER?

Once we make room for the possibility that international law might sometimes make things worse, we are in a position to study the trade-offs contained within law and order on a global scale. This brings us to my final point: Is international order desirable?

King shows that sometimes the right course of action is to undermine order rather than reinforce it. IR scholarship does not give much space to this possibility. Much effort in IR is invested in understanding patterns of order and future prescriptions. It is simply assumed that everyone wants order, and more rather than less. Law, order, and good governance get bundled together in what Ingo Venzke has called a “vocabulary of virtue.”²⁴

In a sense, in the “Letter,” King is asking if Alabama in 1963 needs *more* order. His answer is equivocal: It depends on whose idea of order is implemented. Under its current government, he argues for less order and more tension.

His equivocation is instructive for IR. It points away from a generic conceptualization of international order and instead directs attention toward the value or outcomes that the order is promoting. Instead of looking for the causes or correlates of international order, it encourages attention to the goals and purposes and people behind competing orders. It points, in other words, to the politics in international order.

This helps unpack some mysteries in IR theory. For instance, it shows how a rules-based international system looks different when the rules are set by Washington than it does when the rules are set by Moscow. It is not the brute

fact that rules exist that does the work—it is the political content and processes behind them that matters. It also explains how British imperial administrators in the nineteenth century could imagine they were helping to bring order to a disorderly globe.²⁵ They sought a version of order with themselves in charge, organized along lines that they recognized as orderly, regardless of whether this was order from the perspective of Britain's overseas subjects. It also explains the curious turn in Hedley Bull's work in which he begins with an avowed political concept of order (not mere patterns) but then assumes that *everyone* benefits from the social goals that he identifies as universal goods, outside of politics and without disagreement.²⁶ Anyone who opposes these goods is selfish or antisocial.

This is not really news to anyone who has thought, like King, about the complexities of justice or of government-enforced inequalities. But it is notably absent from core IR debates about international law, order, and governance. The *problématique* of “world-order common sense” is prevalent, such that IR literature is largely silent in the places where one might expect to find the arguments *against* order. King shows how important it can sometimes be to work against order; IR has no comparable conversation.

PAYOFF

Within Dr. King's famous rationalization of civil disobedience and direct action lies a distinction regarding the nature of social order that is instructive for scholars of international relations. Where IR scholars typically see a shortage of international order and counsel governments to choose policies that enhance it, King makes the case for disruption and disordering when the circumstances demand it. At the heart of the matter are two competing conceptions of order: order as the existing patterns of society that are recognizable as the status quo, and order as the arrangement of political power that serves some interests over others. Both approaches are found in writing on international order, but the contrast between the two is not often made.

Scholars of international order should be alert to the implications of conceptualizing the term in one way or the other. The two paths lead to distinct models of international order, with different research methods, normative assumptions, and relations to politics. These are choices that scholars are making about how to operationalize international affairs. King's “Letter” suggests three questions we might ask of anyone writing about international order:

1. *What does “order” mean?* Does it refer to a sequence of patterned events, or to an arrangement of political power that serves some interests over others? If behavioral regularity is sufficient to identify the existence of order, then normative and political issues are presumably being set aside.
2. *Are law and legal compliance understood as coterminous with order?* Much IR scholarship suggests they are, in the sense that they endorse law following as an inherently prosocial policy choice and perhaps use compliance as a proxy measure for the strength of the order. But King suggests we remain alert to the important gap between order and law.
3. *Is order good?* IR scholars have a long history of treating international order as an inherent good, but King offers a practical reminder that sometimes disordering practices are more important than order.

By keeping the “Letter” in mind, IR scholars and practitioners will remember to ask about the political values that inhabit international order before endorsing deference to it. Normative judgment and empirical assessment are the raw materials in King’s calculations of the merits of “law and order,” and his output is the political choice to support through practice only those laws that contribute to decent outcomes. International order is no doubt as politically contested as domestic legal order, and they are equally built upon trade-offs among competing claims for dignity and for resources. IR scholars can widen their conversations by paying attention to the contested politics within the idea of world order.

NOTES

- ¹ “White moderates” is King’s language from “Letter from Birmingham Jail.” “Law and order and commonsense” is from the provoking letter by critics to which King was responding. Their letter was reported in the local newspaper. See “White Clergymen Urge Local Negroes to Withdraw from Demonstrations,” *Birmingham News*, April 13, 1963.
- ² G. John Ikenberry, *Liberal Leviathan: The Origins, Crisis, and Transformation of the American World Order* (Princeton, N.J.: Princeton University Press, 2012), p. 3.
- ³ Terence C. Halliday and Gregory Shaffer, “Transnational Legal Orders,” introduction to Terence C. Halliday and Gregory Shaffer, eds., *Transnational Legal Orders* (New York: Cambridge University Press, 2015), pp. 3–74, at p. 7.
- ⁴ Martin Luther King Jr., “Letter from Birmingham Jail,” April 16, 1963, letterfromjail.com.
- ⁵ *Ibid.*
- ⁶ *Ibid.*
- ⁷ According to E. H. Carr, “History is a sequence of cause and effect, whose course can be analyzed and understood by intellectual effort.” E. H. Carr, *The Twenty-Years Crisis, 1919–1939* (London: MacMillan, 1946), p. 64.
- ⁸ Jeffrey L. Dunoff considers the implications of using compliance as a measure of the strength of international law and order in “Is Compliance an Indicator for the State of International Law? Exploring the ‘Compliance Trilemma.’” In Heike Krieger, Georg Nolte, and Andreas Zimmermann, eds., *The International Rule of Law: Rise or Decline?* (Oxford, U.K.: Oxford University Press, 2019), pp. 183–203.
- ⁹ See, for instance, Hedley Bull’s famous formulation of international society in the opening pages of *The Anarchical Society: A Study in World Politics* (New York: Columbia University Press, 1995).

- ¹⁰ King, “Letter from Birmingham Jail.”
- ¹¹ Bentley B. Allan, *Scientific Cosmologies and International Orders* (Cambridge, U.K.: Cambridge University Press, 2018), p. 5.
- ¹² Carr, *Twenty-Years Crisis*, p. 63.
- ¹³ Bull, *Anarchical Society*, pp. 3–4.
- ¹⁴ Bruce M. Russett, *Grasping the Democratic Peace: Principles for a Post–Cold War World* (Princeton, N.J.: Princeton University Press, 1993).
- ¹⁵ See Ian Hurd, “The International Rule of Law: Law and the Limit of Politics,” *Ethics & International Affairs* 28, no. 1 (Spring 2014), pp. 39–51. In that article, I outline both the primacy of compliance over noncompliance in international legal scholarship and the small literature on “constructive non-compliance.” On noncompliance, Thomas Franck’s “What, Eat the Cabin Boy?” is a beginning: Franck suggests that faithful compliance with the ban on war in the UN Charter may lead to too few “humanitarian interventions,” and he puzzles through how to reconcile his wish for more interventions with his faith in the compliance with law. See Thomas Franck’s “What, Eat the Cabin Boy? Uses of Force That Are Illegal but Justifiable,” ch. 10 in *Recourse to Force: State Action against Threats and Armed Attacks* (Cambridge, U.K.: Cambridge University Press, 2009), pp. 174–91.
- ¹⁶ Stephen A. Kocs, *International Order: A Political History* (Boulder, Colo.: Lynne Rienner, 2019), p. 5.
- ¹⁷ Barbara Koremenos, *The Continent of International Law: Explaining Agreement Design* (Cambridge, U.K.: Cambridge University Press, 2016).
- ¹⁸ Harold Hongju Koh (“Why Do Nations Obey International Law?,” *Yale Law Journal* 106, no. 8 [1997], pp. 2599–659), quoted in Oona Anne Hathaway and Harold Hongju Koh, eds., *Foundations of International Law and Politics* (St. Paul, Minn.: Foundation Press, 2005), p. 196.
- ¹⁹ Ian Hurd, “Enchanted and Disenchanted International Law,” *Global Policy* 7, no. 1 (February 2016), pp. 96–101.
- ²⁰ King, “Letter from Birmingham Jail.”
- ²¹ Fear of the worse alternative is a central theme in Anne-Marie Slaughter, “The Return of Anarchy?,” *Journal of International Affairs*, March 15, 2017, jia.sipa.columbia.edu/news/return-anarchy.
- ²² Ian Hurd, “The Case against International Cooperation,” *International Theory* 14, no. 2 (July 2022), pp. 263–84.
- ²³ Judith N. Shklar, *Legalism: Law, Morals, and Political Trials* (Cambridge, Mass.: Harvard University Press, 1986).
- ²⁴ Ingo Venzke, “Is Interpretation in International Law a Game?,” in Andrea Bianchi, Daniel Peat, and Matthew Windsor, eds., *Interpretation in International Law* (Oxford, U.K.: Oxford University Press, 2015), p. 355.
- ²⁵ Keally McBride, *Mr. Mothercountry: The Man Who Made the Rule of Law* (New York: Oxford University Press, 2016); Lauren Benton and Lisa Ford, *Rage for Order: The British Empire and the Origins of International Law, 1800–1850* (Cambridge, Mass.: Harvard University Press, 2018); and Duncan Bell, *Reordering the World: Essays on Liberalism and Empire* (Princeton, N.J.: Princeton University Press, 2019).
- ²⁶ King’s recourse to natural law serves a similar function, transforming a particular, subjective sense of justice into a universal.

Abstract: In this essay, I use Martin Luther King Jr.’s “Letter from Birmingham Jail” to open questions about international order and disorder. The idea of order is central to modern discourse on international politics, but the concept is often ill defined and ambiguous. King’s ideas clarify three issues: First, is order understood as an objective condition of a system or a political judgment about its suitability for social life? Second, does compliance with law lead naturally to order? And third, is order always preferable to disorder? The way King answers each question is somewhat different than the conventional wisdom in international relations. IR scholars typically assume that international order is a universal good and that compliance with law enhances it. King highlights the gap between order as defined by the authorities in Alabama and his own lived experience. I use the difference to map the terrain of scholarship on international order and disorder and to draw implications for concepts, research methods, and political judgment.

Keywords: international order, world order, rule of law, Martin Luther King Jr, international disorder