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## The Evolution and Development of International Law

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### ABSTRACT

The research paper talks about how the evolution of international law took place in the late era. Different treaties, convention, declarations and agreements took place just to make a formal international law for peace and security among the world. After the world war I, a lot of terror and destruction was done and a lot of people were killed which caused a emergence for international law. The UN charter plays a key role for establishing peace between different nations among the world. India has done a lot for the establishment of international law in various areas like trade, environment etc. The ICJ charter gives the judges the power to make peaceful adjustments between nation worldwide through which there is sense of security and justice given to world. International law is progressing day by day, new laws are added for the development of international law.

Keywords : Evolution, Development

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### INTRODUCTION

Each country in this world formulates different laws to govern the society in a very efficient manner just to ensure peace and security in the nation. Similarly, when we look at the international level, when different countries come together at a certain common platform to formulate laws that governs intercourse between countries, it is referred as international law.

According to Encarta Encyclopedia:

<sup>1</sup>International law is a body of laws, principles, rules and standards that govern nations and other participants in international affairs with one another. International law is a characteristic part of the general structure of international relations. When considering the responses to some kind of particular international situation, states often consider relevant international laws. International law considers the establishment and subsequent change of a world system based almost entirely on the notion that the independent sovereign states are only appropriate actors in the international system. The basic structure of international law was drafted during the European Renaissance, although its origins go deep in ancient history and can be traced back to the cooperation agreements made between the peoples in the ancient Middle East.

International law is a system of treaties and agreements between nations that govern how nations communicate with other nations, citizens of other nations, and corporations of other nations. In general, international law is divided into two different groups:

**Private international law:** Discuss private law conflicts between legal entities, such as individuals or corporations, that have a consequential relationship with more than one country.

**Public International Law:** These are the relationships between nations that include universal norms of behavior, law of the sea, business law, diplomatic law, environmental law, human rights and humanitarian law. Some principles of international law are contained or "codified" in a number of documents, but the human being and they are nowhere written.

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### EVOLUTION OF INTERNATIONAL LAW

International law is not only the result of several treaties from the 19th and 20th centuries, but goes back to antiquity. Treaties between the Mesopotamian city of Lagash and Umma are considered to be the foundation of international law. The relations between them were developed by the Greeks, who laid the foundations of the international legal order. <sup>2</sup>The concept of "Jus Gentium" (international law) was developed during the rule of the Roman Empire, which defined and regulated the relationship between the foreigners and Roman natives and the situation of foreigners living in Rome. Later, the development of the concept of natural law highlighted that all human beings have certain rights inherent, which helped to expand the scope of international law developed on the European continent.

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<sup>1</sup>[www.britania.com](http://www.britania.com)

<sup>2</sup>[www.law.edu.in](http://www.law.edu.in)

The renaissance in Europe played a very important role in the evolution of international law. Hugo Grotius is called to be the most important personality in this field, he has articulated an international order that resulted from a "society of states" that should be governed by the use of law, mutual agreement and custom and not by the force or war.

The naturalist and positivist were established in the footsteps of Hugo Grotius. The adoption of the Westphalian system is an important milestone in international law as it recognized the concept of the independent sovereign entities known as the "nation state". International law gained in importance, especially in the 19th and 20th centuries.

During the 19th and 20th centuries, international law took its legal form, during which time various pacts and treaties were signed that eventually resulted in the formation of the United Nations.

#### **The Congress of Vienna (1815)**

It is considered as the turning point in development of international law, known as the Congress of Vienna, which took place in 1815. It was conducted by von Metternich, an Austrian statesman from Klemen, and the ambassador of the European states with the aim of drawing up a long-term peace and security plan for Europe. For solving the serious issues that were aroused from the Revolutionary War of France and also from the Napoleonic War were the main agenda of the Congress. It laid down the important international rules such as rules in context to International River, categorization of diplomatic agent etc.

#### **Paris Declaration (1856)**

Another milestone in the development of international law. In Paris declaration, 55 nations gave their consent on a diplomatic policy with regard to the law of the sea. This declaration laid down some important rules for naval warfare. The main principle developed in it was to forbid the attack on defenseless people and to try to save the life of the crew before sinking the enemy ship. It was coded by France and Great Britain.

The three consented principles of declaration were: do not privatize, effective blockade and free shipping of free goods. It also paved the way for the new rules for sailing on the high seas.

#### **Geneva Convention (1864)**

Formulation of rules and regulations for protection of the sufferers of armed conflict and the people they care for were done in this convention.<sup>3</sup> In 1864 the first treaty of the Geneva Convention was passed, which was reformulated and supplemented in 1906, 1929 and 1949. Today the International Committee of the Red Cross sees above all the implementation of the Geneva Convention. Killing wounded soldiers was prohibited in the Geneva Convention.

#### **Hague Conventions of 1899 and 1907.**

Two of the conventions were held in The Hague (Netherlands) with the aim of resolving international law for peaceful settlement of international disputes. The convention was important for the enforcement of international law in the event of a conflict. Defenseless people, weapon restrictions, etc. were main results of this convention. The convention led to the foundation of the Permanent Court of Arbitration. Third conference was supposed to take place in 1914, but due to outbreak of the World War I, the third conference could not take place.

#### **The League of Nations (1919)**

The League of Nations is also called as the son of the World War I. When the leaders of the Western countries met at Paris Peace Conference, they decided to create an international organization that would be able to resolve all kinds of international disputes and also which should not allow horrific incidents such as World War I to repeat themselves. It was founded in the Treaty of Versailles. The important purpose of the League of Nations was made to resolve international disputes through peaceful methods such as arbitration, negotiation, etc., before disputes were initiated. A member goes to war in opposition to the principle of the League of Nations, he will be called as an enemy of the entire League of Nations. The League of Nations founded the Permanent International Court of Justice. For many reasons, the League was unable to achieve its main aim that led to the outbreak of World War II, and so a new organization, the United Nations, was born.

#### **Locarno Treaties (1925)**

The Locarno Treaties were the result of negotiations between France, Germany, Great Britain and Italy in Switzerland in 1925. A total of seven agreements were under this treaty. Not to use force when drawing boundaries, the peace and dispute settlement mechanism is followed. Another goal to achieve was to normalize the relations with defeated Germany (the Weimar Republic). Later, in 1936, Germany refused to obey the terms of the treaty.

#### **Kellogg Briand Pact (1928)**

The "Pact of Paris", the General Treaty on the Renunciation of War as an Instrument of National Policy, developed with the objective of controlling the outbreak of war.

#### **The United Nations (1945)**

The non-success of the League of Nations led to the World War II. In the end of World War II, a latest organization was formed at the UN with the objective of protecting the nations from future wars. It established on October 24, 1945, the heads of 50 governments met in San Francisco for conference and draft the United Nation Charter. Today this establishment is the hub of international law. Nations and achieve international cooperation.

<sup>3</sup>[www.americanforeignrelation.com](http://www.americanforeignrelation.com)

## DEVELOPMENT OF INTERNATIONAL LAW

### *HISTORICAL DEVELOPMENT IN INTERNATIONAL LAW*

International law reviews the foundation and following change of a world system based entirely on the perception that independent sovereign states are the simplest applicable relevant actors within the worldwide system and it can be traced back to cooperation agreements among peoples within the ancient Middle East. Various pacts were then negotiated via way of means of numerous Middle Eastern empires. The lengthy and wealthy cultural traditions of historical Israel, the Indian subcontinent, and China has been additionally in critical improvement of international law.<sup>4</sup> The *jus gentium* (Latin: "international law"), was established by the Romans to regulate the position of foreigners and relationships between foreigners and Roman native. Accordance with the Greek concept of natural law that they had adopted, the Romans conceived the *jus gentium* as universally valid. After the crumble between the Western Roman Empire within side the fifth century, Europe endured from repeated wars almost for 500 years. Finally, a group of nation-states emerged and various supranational regimes were made to regulate interstate relations, including canon law, commercial law and many other codes of the law of sea. The Dutch jurist Hugo Grotius has inspired the improvement of the sphere to a volume unequaled via way of means of every other theorist and prepared it right into a complete system particularly in *De Jure Belli ac Pacis*, 1625. In the end of World War II to the 1990s, many of the events were for international peace and security at risk were linked to the Cold War between the Soviet Union and its allies and the United States-led Western alliance. The United Nation Security Council could not result as expected, as resolutions were proposed by one side would possibly be rejected by other side. The bipolar alliance encouraged the development of regional organizations.

### *RECENT DEVELOPMENT IN INTERNATIONAL LAW*

The nuclear age and the space age brought new advances in international law. Under the auspices of the United Nations, the basis of space law was created in the 1960s,<sup>5</sup> Treaties for the Internationalization of Outer Space (1967) and Other Celestial Bodies (1979). Treaty on the Limited Test Ban (see Disarmament, nuclear weapons) banned nuclear tests in the atmosphere, in space and underwater. The Nuclear Non-Proliferation Treaty (1968) aimed to limit the proliferation of nuclear weapons. The Strategic Arms Limitation Talks agreements signed by the United States and the USSR in 1972 restricted defensive and offensive weapon systems.

<sup>6</sup>This was the first of several bilateral arms treaties between the two nations prior to the dissolution of the Soviet Union. Other treaties included Antarctica (1959), the ban on narcotics (1961), satellite communications (1963) and terrorism (1973). The Treaty of the Law of the Sea (1982, in force since 1994) stated the state of environmental problems have culminated in a multitude of international treaties, including Fisheries Agreements (1958), Threatened Species (1973) and many other. There have been several foreign trade agreements since the signing of the General Agreement on Tariffs and Exchange (GATT) in 1947.

<sup>7</sup>The European Union (before 1993 the European Community) advocated the creation of a national legal order; In 1988 a court of first instance was created to act as the original court of jurisdiction in some economic matters. Progress in international law following the repeal of the treaty by the United States under President George W. Bush.

### *DEVELOPMENT OF INTERNATIONAL LAW BY ICJ*

There isn't any provision within the ICJ's charter or statute that makes decisions of the ICJ binding, besides for the parties. According to Article 38 of the ICJ Statute, clause 1 (d) acknowledge the decisions of the ICJ as a subsidiary means of determining legal norms:

<sup>8</sup> Article 38 (1): The Court of Justice, whose function is to decide in accordance with international law Controversies submitted to it (d): Subject to the provisions of Article 59, the verdicts and teachings of the most highly qualified publicists of the various nations as a subsidiary means of establishing the rules of law.

Article 59 of ICJ Law restricts applicability of ICJ judgment between the parties, that states:

"The verdict of the Court of Justice is not binding except among the parties and in relation to this particular case.

The two clauses make it clearly untestable that, on one hand, the ICJ has no legally general authority to make legal precedent such as that applied to the courts in many national jurisdictions. On the other side, ICJ decisions are not the direct source of international law, but only subordinate forms in legal determination. But will it mean that ICJ has no power to make or to develop new rules of international law?

The ICJ can make or develop new norms and also new rules of international law in these ways:

<sup>4</sup> [www.academia.com](http://www.academia.com)

<sup>5</sup> [www.iblogpleader.com](http://www.iblogpleader.com)

<sup>6</sup> [www.iblogpleader.com](http://www.iblogpleader.com)

<sup>7</sup> [www.iblogoleader.com](http://www.iblogoleader.com)

<sup>8</sup> [www.legalun.org](http://www.legalun.org)

**The ICJ can recognize newly emerged customs** - With reference to the common law, the ICJ can identify a whole new practice that has been come into force or has been abolished. The practice may traditionally now no longer diagnosed via way of means of the international community, however if it's been constantly practiced as *opinio juris*, it could be accepted by the ICJ.

**Reference to general principles of law**—law can also be created by magistrate by explicate existing law and applying general principles of law to which the ICJ can refer to enclose the general legal principles existing in the national legal systems based on the judgment of the ICJ and will eventually prevail as customary law. The ICJ indirectly contributes to the task of forming international law.

**Make a Whole New Rule**— If there is no trusted source to rely on in resolving a specific dispute (no custom, contract, general rule of law), the ICJ can make a new set of rules, which can be based on fairness, equity and other relevant elements in order to achieve a solution in a specific dispute.

### **DEVELOPMENT OF INTERNATIONAL LAW IN INDIA**

Contribution made by India to international law, particularly in areas of environmental protection, humanitarian law and security, automation and trade laws, cannot be overestimated. Also, India had harmonized a lot many of its national laws with the international ones in order to meet its international obligations. Popular rights, environmental rules, intellectual property rules, arbitration laws, trade laws, and space laws are all important elements in this exchange.

Implementation of international law in India go as far as the government or from the perspective of the links between the constitution of India and foreign law Time before independence. Even at the time of British rule, India was an independent member of the League of Nations and also an originating member of the UN. It contains a lot of the basic philosophies and also principles that is promised by India to its citizen and seeks to achieve as country. The preamble stipulates, between many other things, it guarantees equality, freedom, social, economic and political justice, principles that is the basis for a true democratic country and the soul of which is fundamental in nature. Different nations attempt to attain them.

<sup>9</sup> Article 51A gives the effect to the resolution contained in Article 29 (1) of the Universal Declaration of Human Rights, gives emphasizes to the commitment of the individual. Constitution of India is one in few country's constitutions in the world that specifically come up with for the promotion of international relations.

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### **CONCLUSION**

International law, which has been divided among two parts as researched above, which plays a key role for the governance for countries of the world be conveyed in such a way that it serves all around the world.

In the period of the historical and ancient empires, a little scope for international law, and its new starting therefore coincide with the rise of nation-states after the centuries. Maritime transport, the rules for diplomatic agents were introduced. At the starting of the 17th century, the great multitude of small independent states, who found international anarchy unbearable, paved way for the benevolent reception of *De jure belli ac pacis* (on the law of war and peace) (1625) by Hugo Grotius, the first broad and complete formulation in international law. Their views and advertence then constantly consulted, frequently set out as the basis for outreach of an agreement or declaration in international disputes. The important principle advocated by him was the idea of sovereignty and legal equality of all states.

Many changes and development took place in during the ancient times which gave a base to international law. During 19<sup>th</sup> and 20<sup>th</sup> century a formal shape was given to this law, various kinds of pacts, treaties, declaration, conferences were signed during this period. In recent times the development of this law has been progressed by establishing new foundations to play major role to govern international law.

### **MATERIAL**

- JOURNALS
- REFERENCE BOOK
- ONLINE ARTICLES
- VIENNA CONVENTION CHARTER
- ICJ CHARTER

### **METHOD**

- The research is based on qualitative legal research it is a empirical methodology for extracting important info from legal documents and court documents. There are certain legal charters and ancient text used to do the research.

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<sup>9</sup> [www.jstor.com](http://www.jstor.com)

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