

INFLUENCE OF INTERNATIONAL LAW ON INTERNATIONAL SOCIETY

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INTRODUCTION

International law may be defined as the body of rules and principles of actions which are binding upon civilized states in their relations with one another.¹

International society exists when a group of states, conscious of certain common interests and values form a society in the sense that they conceive themselves to be bound by a common set of rules in their relations with one another.²

International law has not been able to solve the problems of conflict, aggression and war despite the hopes of idealists of the peace through law approach. Not with-standing these ultra-realist objections, international law does exist even if it has limited applicability in the high profile areas of controlling aggression, conflict and war. It has over the centuries played a vital part in shaping the character of international society.³

There have been studies of Law of Land, Sea and Air but little has been said about the influence of international law on international society. The purpose of this paper is to analyze the role of international law in international society, in which that law operates, to find out the linkage between international law and relations of nations which that law orders and to look into the relationship between international law and national interest which that law furthers. Forces and factors responsible for law observance and violation of law including the case study of American attack on Iraq which constitute the gross violation of international law, will also be examined.

FORCES FOR LAW OBSERVANCE

International law is commonly observed by States because States desire their relations with other countries to be friendly and they know that any violation of law will disturb relations between them. States have a common interest in keeping the society running and in keeping international relations orderly. There are some internal forces, which influence every government to observe international norms and rules. A major influence for observance of international law is the effective acceptance of the law into national life and institutions. When international law or some particular obligation is accepted, national life will reflect it, the institutions and personnel of government will take account of it and the life of people will absorb it with acceptance comes observance.⁴ Attitude towards international law reflects a nation's constitution, its laws and institutions, its history, traditions and its values. Some nations are more law abiding than others by reason of their national morality and character. International law also enjoys the support of those forces in a democracy that check the abuses of government, opposition parties, and independent press, a scholarly community, various pressure groups all vigilant to criticize the government. Political personalities and their personal power may exert important influence for law observance in the degree of their commitment to international order.⁵ Finally one can not afford to ignore the role and influence of legal advisers in the life of the country.

The general impression about international law is that it depends for its efficacy upon the general will of the community to be abide by its rules. Those who believe in consensual nature of international law insist that a State could only be bound by a rule to which it had in some way consented. It has been asserted by many writers that if a State has consented to a rule of international law, it feels obliged to honour the rules approved by it.⁶ So the consent of free will of the State is important, either it is expressed by treaties and agreements or it is implied by accepting the customary rules of international law. This view point has been criticized. According to critics, in practice it is not necessary to provide that State has given its consent with regard to a specific rule of international law. The holders of this opinion, emphasize that all the States are bound by international law, no matter whether they have given their consent or not.

States are bound by general international law even against their will, just as an ordinary person has to obey municipal law even against his will. Here one can quote the example of newly independent States, which get rights and duties under international law, immediately after becoming the subjects of international law. So consent can never be an ultimate force of legal obligation. While concluding this discussion one can say that traditional reliance on consent alone does not offer an adequate explanation of the way, States act in relation to the law.

NON-LEGAL FACTORS AND OBEDIENCE OF LAW:

The non-legal factors which help to maintain the legal norms are of primary importance. Interdependence of States is an undeniable reality. States are naturally interdependent in many ways. One can not survive without the help of the other. This interdependence, requires of body of rules between States as it is required between men within a State. States are interdependent in many ways e.g. international trade. International law facilitates international cooperation. States come in contact with one another and cooperate. This contact may cause some conflict. So there must be a method or way of regulating conflicting claims and of settling disputes. Secondly States have common interests e.g. Prevention of Pollution. To meet these interests a treaty or some other legal instrument is the obvious way of laying down the necessary rules. In case of disputes specially, it is in every one's interests to have an agreed rule to deal with all cases instead of leaving every individual State to decide the case by itself.⁷ Even when the relevant rule of international law is imprecise, it still performs a useful function. A rule of international law may not eliminate the area of disagreement between States but at least makes it easier for disputes to be settled without friction.

Every nation's foreign policy depends substantially on its "credit", on maintaining the expectations that it will live up to international mores and obligations.⁸ Considerations of honour, prestige, leadership, influence, reputation which figure prominently in government decisions, often weigh in favour of observing law. Nations generally desire a reputation for principled behaviour for propriety and respectability.⁹

VIOLATION OF INTERNATIONAL LAW:

The general impression about violation of international law is that it is due to the lack of executive authority to enforce international law and the lack of effective sanctions against the violator. Since laws and agreements limit the freedom of States, governments will not observe these obligations, unless they are compelled by external authority and power. The fact is that threat of such sanctions is not the principle inducement to observe international obligations. At least the absence of sanctions does not necessarily make it likely that States will violate law. Nations act on the bases of cost and advantage. Law observance is usually the rational policy, but States do not always act rationally. Law observance usually has dominant advantages but governments do not always act deliberately on the basis of a careful calculus of cost and advantage.¹⁰ There are cases when the cost of law observance seems too high and the cost of violation temptingly low. Usually a State deliberately violates a norm or agreement because it expects that the advantages of violation will outweigh its costs.

**ATTITUDE OF AFRO-ASIAN STATES
TOWARDS INTERNATIONALS LAW:**

Since most of Afro-Asian States were mostly under an alien rule during the formative period of international law and therefore played no part in shaping it.¹¹ Occasionally their leaders argue that they are not bound by rules which they did not help to create. However this argument is only used in relation to rules which go against the interests of Afro-Asian States.

Most Afro-Asian States are poor and are anxious to develop their economies. Those which wish to develop their economic along socialist lines are therefore, opposed to the traditional rule of international law, which forbids expropriation of foreign owned property prepared to accept the traditional rule as a means of encouraging foreign private investment. Since 1973 Afro-Asian States have demanded the establishment of a new international economic order, which would entail a legal obligation for richer States to help the economic development of poorer States. So the

economic interests of Afro-Asian States affect their attitudes to the rule of international law.¹²

CONCLUSIONS

In the final analysis it may be concluded that the State of international law is still primitive, the relations and actions to which international law speaks are limited. Even those who are aware of the law's limited reach share the common impression that the field of international law is sown with violated norms and broken treaties. Although there are reasons for this impression, it is grossly mistaken. There is tendency to judge law observance by counting the violations. But the influence of international law can hardly be assessed by number of violations alone. Violations of law attract attention. While loyalty of nations to the law and their obligations is hardly noted. It is probably the case that almost all nations observe almost all principle of international law and almost of their obligations almost all of the time. Despite the continuing temptations in daily intercourse, unnumbered principles of customary law and thousands of treaties are regularly observed. Every day nations respect the borders of other States, threat foreign diplomats and citizens and property as required by law. The fact is that law observance, not violation is the common way of nations.¹³

Sometimes states comply with international law only if it is in their interest to do so. In international relations order and stability are desirable but some immediate and vital interests are preferred. Sometimes States, which what to escape from an inconvenient rule of law, seek to justify their actions by claiming that they took the action on behalf of the international community. Though the nature of international society is anarchical and disorderly. States do generally observe the laws and obligations, believing that order is the governing principle of the world not the chaos, which could only be maintained by observing international law.

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