

STATE SOVEREIGNTY AND INTERNATIONAL OBLIGATIONS

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ABSTRACT

The concept of State Sovereignty and international obligations go hand in hand. The interplay between the two principles operates in checks and balances system. Where one entitles a nation with power, the latter restricts its power to maintain international relations, peace and security. In this article, the author has attempted to describe the subtle relationship between the two aspects of international law that play a vital role in global governance. The rights and obligations of a State are derived from various sources such as Customary practices, Treaties, Conventions, general principles of law, international organizations, etc., which almost creates a binding effect upon the States to follow them but the deficiency in the strictness of sanctions and other socio-economic factors results in disobedience of ones rights and own obligations. International law, at various times, has attempted to define State rights and obligations to build the structure of worldwide administration. However, it is constantly evolving with rational and reasonable findings to sharpen its features by dealing with and overcoming numerous issues and modern expectations.

Keywords: Sovereignty, International Obligations, Customs, United Nations, Treaties, Conventions, General Principles of Law.

MAIN TEXT

Power is a non-obsolete trend. From the onset of time, the hustle and bustle were all about conquering power. Power determines absoluteness, authority, and independence that precisely are the qualities of sovereignty. A State is deemed truly sovereign when it can govern its population and territory without external force or interference. State sovereignty is crucial as it portrays a State's self-sufficiency in domestic administration to the external world for gaining recognition and building relationships with other sovereign States.

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SOVEREIGN STATE

The concept of Sovereignty encompasses both rights and restraints. A sovereign State possesses the right to wield authority over its land including the ability to create laws, strategize socio-economic factors, and promote the welfare of its populace. On the other hand, a State's sovereignty limits other States from intervening in the domestic affairs of other independent States. According to the UN Charter, "*All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.*"¹

Further, the Westphalian system, which put an end to a thirty-year-long war through the Treaties of Westphalia in 1648, is a system that defines the concept of State sovereignty. It states that States have exclusive authority over their territory and domestic affairs. This means that other Sovereign States are not permitted to interfere in the internal matters of another independent country.

It is essential to comprehend that rights do not come single-handedly; they bring along various corresponding obligations. Where the State enjoys the entitlement of rights, it is incumbent upon that State to upkeep such rights through necessary measures. These obligations preserve the integrity of rights because when the rights are absolute, the threat of arbitrariness and unregulated conduct is accompanied. A right can disturb social and political relationships when exercised without fulfilling its corresponding obligation. It is imperative to balance rights with responsibilities for a peaceful and harmonious society.

INTERNATIONAL OBLIGATION

At an international level, where one State is responsible for protecting its rights by undergoing the obligations, other States are also responsible for protecting such rights, as one's right can be another's obligation. International obligations, in general, can be described as the duties and responsibilities falling on each State to protect its rights without infringing the rights of other States. Obligations may have different forms, origins, and natures on a global platform.

Throughout its history, international law has undergone significant development. Initially, rights and obligations were limited in scope. However, over time, international law has expanded to include established norms, as well as those that have arisen through express and/or

¹ United Nations Charter [1945], art 2 cl 4.

implied agreements, regular usages, and practices. The evolution of international law can be traced back to the very beginning of human society, and it will continue to develop. As a result of these ongoing changes, the scope of rights and obligations within international law has significantly increased.

FORMS OF RIGHTS AND OBLIGATIONS

Rights and obligations arising out of customs: Customs are practices that have been used for a long time. In simple terms, a practice, when in use for a long time, becomes a custom. Customs are one of the primary sources of International Law that pronounces many rights and obligations at the global level. According to the Statute of the International Court of Justice, International customs are the evidence of general practice accepted as law² that means customs are treated as law while adjudicating international disputes.

The Fisheries case³ involved an application filed by the Government of the United Kingdom of Great Britain and Northern Ireland against the Kingdom of Norway. The case centred on the validity of the lines of delimitation of the Norwegian fisheries zone established by the Royal Decree of 1935. The decree defined the zone where fisheries were reserved for Norwegian nationals. The UK government asked the International Court to declare the principles of international law to be applied in defining the baselines and to award damages to the United Kingdom in response to interferences by the Norwegian authorities with British fishing vessels. The International Court ruled that neither the method employed for the delimitation by the Decree nor the lines themselves fixed by the said Decree violated international law. The 1935 Decree was found to be an application of a traditional system of delimitation established under international law. The Court noted that the Norwegian Decree of 1812, along with several subsequent texts, demonstrated that the method of straight lines had been established in the Norwegian system and consolidated by a constant and sufficiently long practice. The application of this system encountered no opposition from other States, and even the United Kingdom did not contest it for many years, only making a formal and definite protest in 1933.

The case above highlights the essence of custom and how it can create a right and an obligation in the same fold. The Decree of 1935 seems to have its roots backed by the 1812 decree which establishes a standard of delimitation followed by the Kingdom of Norway over a long period

² Statute of the International Court of Justice [1945], art 38 cl b.

³ *United Kingdom v Norway* [1951].

which further makes that standard practice, a custom. This custom inculcates a right in the Kingdom of Norway to protect the zone from foreign fisheries and creates an obligation against the entire world to exclude themselves from the specified fishery zone of the Kingdom of Norway. An international obligation hangs over every State to abide by the Decree of 1935.

In another aspect of customary practices in the realm of international law, the idea of 'innocent passage' holds significant importance. It was first introduced by Hugo Grotius and paved the way for the fundamental principles of freedom of the seas. The law of innocent passage confers foreign vessels with the right to navigate through the territorial waters of another country, but only under certain restrictions and regulations. This concept of innocent passage encompasses both the rights and responsibilities of the foreign vessel as well as the coastal state in whose waters the vessel is sailing. The foreign vessel has the right to travel through another country's territorial waters, but it is also required to maintain peace, security, and good order in that coastal state. At the same time, the coastal state has the right to detain or take other necessary measures to safeguard its sovereignty, peace, and security. Furthermore, it is also obligated to allow the foreign vessel to travel through its territorial waters. The concept of innocent passage was codified in the United Nations Convention on the Law of the Seas.⁴

Rights and obligations arising out of treaties and conventions: Treaties are agreements made between two or more States to resolve an issue. These agreements can either be bilateral (between two States) or multilateral (between more than two States) and they bind the contesting States over a particular subject matter. Treaties function similarly to contracts, as they include a statement of purpose, rights and obligations of the signatories, and other clauses that create a binding effect on the signatories to abide by the treaty's terms. The doctrine of *Pacta Sunt Servanda* prescribes that a treaty creates a binding effect on the signatories, and they are expected to follow it in good faith.⁵

In the *Diversion of Water from the Meuse case*⁶, a treaty was signed between the Netherlands and Belgium to regulate the use of water in the Meuse River for navigation and irrigation purposes. As the economic conditions evolved, both countries expanded their waterways by building new canals, dams, and other structures. The Netherlands approached the Permanent

⁴ United Nations Convention on the Law of Seas [1982], art 19.

⁵ Vienna Convention on the law of treaties [1969], art 26.

⁶ *Netherlands v Belgium* [1937].

Court of International Justice (PCIJ) claiming that Belgium's use of water had exceeded the terms of the treaty.

The main issue in the case was whether Belgium's construction of various works in connection with the Albert Canal complied with the treaty. The PCIJ ruled that the treaty did not prohibit either country from exploiting the river's resources as they had previously been doing. According to the treaty between the Netherlands and Belgium, both countries have the right to use the resources of the River. They are obligated to not disagree with what has already been agreed upon through the treaty. Both nations are obligated to allow the other nation to use the resources of the River as long as the actions taken are per the concerned Treaty. No claims or objections can be raised by either country.

Rights and obligations arising out of general principles of law: The principles mentioned here are based on universally recognized norms that prevail irrespective of any legal system. Unlike natural principles of law that are derived from customs and cultures, general principles of law are based on what is considered right and wrong over a period of time. A significant part of these principles is also based on the principles of natural justice. General principles of law help resolve disputes when treaties or customary laws are ambiguous or uncertain. The judicial system relies on these principles to make decisions in such matters. The *doctrine of non-Liqute* is a situation where there is no appropriate law to adjudicate a certain dispute. Non-Liquet in its literal sense means 'not clear'. When any treaty, law or customary practice is silent over a dispute, the general principles of law show light to the adjudication of the dispute. Some general principles of law include the doctrine of Res judicata, law of estoppel, etc.,

In the Chorzow Factory Case⁷, Germany and Poland entered into an agreement after the end of World War I that stated that Poland could control the Upper Silesia area, which had been transferred by Germany, on the condition that Poland would not dispose of any property. However, Poland went against the agreement by selling two factories located in the area to a third party. As a result, the PCIJ ruled that Poland had breached the agreement and was liable to pay reparations to Germany.

⁷ *Chorzów Factory case* [1927].

The Court's decision reinforces the general principle of international law that holds States accountable for any harm caused to other States. As a result of such wrongful acts, States are obligated to provide compensation under international law.

Rights and obligations prescribed by the International Organisations: International organizations are institutions established through international cooperation, agreements or treaties between governments. The United Nations Organization is one of the most important and well-known organizations, with nearly 193 countries as members. Its main objective is to promote international security, peace, and the protection of human rights. To achieve these goals, various organs have been created under the UN organization. The UN Organization is governed by the UN Charter that lays down various provisions as to the working of the organization and its member countries on a global level. Various responsibilities have been placed through the charter upon the member countries to upkeep the objectives of the United Nations Organization.

For instance, according to the Pacific Settlement of Disputes clause under the charter, every State is required to opt for either negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice to settle their disputes that have the potential to disturb international peace and security.⁸ In this context, every member state has the right to resolve any disputes in a peaceful and friendly manner. It is also mandatory for all parties involved to seek an amicable solution to their disputes before considering any other options.

The previous paragraphs provide some examples of how nations create and abide by rights and obligations at the international level. By working together at the international level, nations create and follow a set of rights and obligations that benefit all of humanity. There are many practices, agreements, treaties, conventions, and international organizations established in various fields, such as trade, banking and finance, intellectual property rights, state administration, and more. These measures ensure that everyone is treated fairly and that progress can be made in different areas. By cooperating in this way, we can build a better world for future generations and ourselves.

While there are many infrastructures involved in building the international legal system, merely creating laws is not enough to fulfil the purpose of their establishment. There are numerous

⁸ United Nations Charter 1945, art 33.

situations where the actions of subjects of international law do not comply with established principles and norms, resulting in violations and disturbances at the global level.

FACTORS AFFECTING SOVEREIGNTY AND OBLIGATIONS

Lack of sanctions: Holland's observation that International Law lacks sanctions and is followed by courtesy makes it the vanishing point of jurisprudence. The absence of sanctions in International Law is a challenge as it creates an environment where parties are not bound by any authority to follow the law's provisions.

In domestic law, a supreme authority is responsible for granting sanctions, and another authority ensures that parties comply with them. However, International Law lacks a supreme authority capable of taking cognizance of disputes involving an international element, adjudicating the matter, and enforcing such an order. To address this challenge, there is a need to establish a supreme authority to oversee and enforce International Law. This would create a binding effect on parties to follow the orders passed by adjudication authorities and ensure that disputes are resolved in a fair and just manner. By creating an effective mechanism for implementing International Law, we can strengthen the rule of law and promote peace and stability in the international community.

State's interests: When a state is presented with a set of rules to follow, it takes a critical look at the significance of such rules in the internal environment of the country before becoming a member or ratifying them. While prioritizing its interests, such as trade, foreign exchange, and internal peace and security, a state may choose to disregard an obligation that it was supposed to follow, resulting in withdrawal from its international obligations to maintain its sovereignty. However, it is important to note that every state has the right to prioritize its interests and uphold its sovereignty while participating in international affairs.

In addition to the aforementioned factors, it's worth noting that trade, politics, and friendly relations with other nations also have a significant impact on a state's willingness to engage in international rights and obligations. When a state derives benefits from the rights and obligations set forth, whether it's through economic gains, technological advancements, or other means, it's more likely to actively participate in upholding international rules and regulations. By recognizing the value of these factors, we can work towards building stronger international relationships and creating a more cooperative global community.

Establishing a balance between a nation's power and its international responsibilities is a constructive approach to maintaining friendly relations with other countries. A complete withdrawal from international duties and responsibilities can impede a nation's progress and, in turn, limit its potential for growth and development. Therefore, a proactive approach to maintaining international relations is crucial for various aspects, such as resource sharing, information transfer, technological aid, financial aid, and boosting the domestic economy.

In addition, following international norms can foster positive relationships with other nations which can help to mitigate political disturbances and imbalances on an international level. Therefore, nations need to embrace international obligations and responsibilities to benefit from the shared resources and opportunities that international relations can offer.

CONCLUSION

The intricate relationship between state sovereignty and international obligations is a critical aspect of contemporary global affairs. Although state sovereignty is the cornerstone of international relations, the complexities posed by transnational challenges necessitate a re-evaluation of established norms. International treaties and organizations provide avenues for collective action, prompting states to willingly relinquish some autonomy for the greater good. These frameworks, such as the United Nations Charter and evolving doctrines, emphasize the shared responsibility of the global community to preserve international stability. Real-world instances, ranging from human rights abuses to environmental crises, accentuate the ongoing challenge between a state's autonomy and its obligation to participate in cooperative endeavours. As we navigate the complexities of the 21st century, achieving a delicate equilibrium between sovereignty and collaboration becomes imperative for effectively addressing unprecedented challenges that transcend national boundaries.