

International law and global governance

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ABSTRACT

This article briefly describes the challenges and opportunities facing international law. It aims to describe and analyze the challenges and opportunities for the development of international law. Further, it attempts to provide some knowledge regarding global issues and problems that requires an immediate collective response from the international community. In this regard, the role of international justice is crucial. The decisions of international courts, including the ICJ and the ICC, assist in maintaining the consistency and integrity of international law. Furthermore, creating a better world for present and future generations will require many adaptation measures and anticipation of future crises (environmental challenges, global warming, human rights, health issues, discrimination, demographic growth, etc.). Significant transformations are taking place in the world, and they will require a new approach to global governance. COVID-19 pandemic had and will have profound and lasting economic, political and social consequences in every corner of the globe. However, international law as a body of law that governs relations between states, international organizations and private persons exposes its vulnerabilities. Recent developments in the international community have made awareness of international law necessary and inevitable as the fully effective law of a fully functioning global society. Still, this development faces several problems and obstacles.

Introduction

the rise of COVID-19 has exacerbated health issues, economic challenges, political crises, and social conflicts worldwide. These challenges led to a reassessment of the structure of the international community based on World War II and the Cold War. As a result, this pandemic will mark the emergence of a new era in international law that bears no resemblance to the world before COVID-19. Similarly, in many countries, we observe an increase in nationalist populism, extremist

ideologies, human rights abuses, and a kind of anarchism in the international community.

In 1945, the United Nations established contemporary international law based on certain principles, such as equality between States, self-determination of nations, international cooperation, respect for human rights, and the peaceful settlement of conflicts. However, these principles are becoming one-sided approaches and practices that will lead to geopolitical

tensions and international peace and security threats. The Charter of the United Nations and the Statute of the International Court of Justice define the current international law. However, the United Nations cannot live up to its commitment to international peace and security, territorial sovereignty, the balance of power, and humanity's common interests.

1. Threats to international peace and security

One of the challenges is the threat to global peace and international security. COVID-19 affects international peace and security. This pandemic has caused political differences at the national level in many countries. In addition, the virus may increase the risk of armed conflict between different powers such as the United States and China, India and Pakistan, North Korea and South Korea. Under these circumstances, the United Nations has limited authority to manage the uncertain global situation. At the same time, multilateralism and international cooperation are essential to maintaining peace and security in this situation. Commitment to the peaceful settlement of international disputes is a fundamental principle of the Charter of the United Nations. However, the existing world order is changing. Based on this fact, can the pandemic be predicted to turn the world into a new world order?

2. Increasing economic competition in the world

The second challenge is the economic crisis. This pandemic will affect the global economic system in production, distribution, and the daily economic life of man. The virus reveals many shortcomings and weaknesses in the global economic and financial system. (Poorhashemi, A., 2020). Based on liberalism, capitalism,

and a free-market economy, the current world is changing and evolving, increasing competition between countries. The multiplicity of unilateral actions and their expansion into the field of new technology, unilateral economic sanctions, and disagreements over the management of international organizations can only be some examples of future conflicts in international law.

In addition, economic integration is a strategy that presents the best way to integrate harmoniously into the global economy and respond to the many challenges that await members on the road to economic development and social well-being. The international community faces demographic pressure, human development deficits, climate change and global competitiveness. Furthermore, regional integration would allow some developing countries to overcome their political misunderstandings, get the leaders to cooperate profoundly and place the interests of the region above their own, regaining security and peace and the confidence that has been so lacking, to put an end to corruption, to establish democracy capable of attracting foreign investment which has long been lacking. (Gueldich, H. 2015).

3. Developing the role of international courts of justice

Another challenge is to increase international pressure for States to take legal action against each other. Under the widespread human and economic damage caused by the pandemic, some individuals and countries are willing to file lawsuits against China or other countries. However, in the current international law situation, the accused State or person is required to prove negligence, negligence or breach of international obligations to receive any compensation from the accused State. According to the basic principles of international law, a State violation

of international obligations or the commission of any international wrongful acts entails international responsibility. Therefore, the claiming States or individuals must prove that China or other States have violated their international obligations. In this case, potential legal action against each other could be a new rivalry between States. The UN Charter Invites States to resolve their international disputes through peaceful means, including arbitration and judicial settlement (Article 33). However, the global justice system appears to face several limitations and efficiencies.

Human rights law has also been transformed by the considerably increased case law of the European Court and the increasingly important work of the United Nations Human Rights Committee, the Court and of Inter-American Commission on Human Rights, the African Court on Human and Peoples' Rights and specialized committees established under treaties such as the 1984 Convention against Torture. (Greenwood, C. 2018).

4. Inefficiencies of international organizations in resolving global crises

Another challenge is the inefficiencies and failures of international institutions. Meeting global challenges requires global participation and cooperation. After the virus outbreak, the world will seek to reform the structure of international institutions such as the United Nations, particularly the Security Council. The current composition of the Security Council no longer reflects the contemporary international community. (Poorhashemi, A., 2021). For instance, the right to veto and the formation of permanent members of the Security Council have created severe obstacles to developing international law, which requires a solution to improve the Council's performance in maintaining international peace and security. At present,

however, the UN General Assembly, as the most representative and democratic assembly, has a crucial role in international law's normative and institutional development.

The main question here is, can we dissolve the existing United Nations and establish a new United Nations in the future with a new structure, vision, mission, and goals?

5. Global health issue

The pandemic has proven that health issues have no boundaries. The health issue has become "global health." Based on this, States and international organizations can no longer see health issues as cross-border, as was commonly seen in previous pandemics. The rapid development of communications across national borders through travel and trade has facilitated the transmission of diseases from one country to another. In this regard, can we expect the emergence and development of international health law as a new branch of international law? (Poorhashemi et al., 2012)

Also, the widespread virus, both in developed and developing countries, has shown that the World Health Organization has failed to manage and efficiently control the virus. As a result, some States have even explicitly affirmed that the WHO is ineffective in global health.

6. Global governance in the context of the global crisis

Managing the global crisis over the Coronavirus has led to the emergence of new actors in international law

who now play a more prominent role globally and in multilevel governance around the world. Under such circumstances, some developing countries expect to have more authority and position in world governance. In this regard, COVID-19 is changing the global distribution of power between States, significantly impacting international legal and institutional systems. In this regard, all States should continue to work together to reduce the risks and threats to peace, security and other health challenges posed by COVID-19.

In this perspective, the most striking feature of this conception of international law is the direct emphasis on shaping or influencing political outcomes within sovereign states in accordance with international legal rules. Even in 1945, the drafters of the United Nations Charter still maintained the classic position that international law and institutions should not "interfere in matters which are essentially the national competence of a state." However, the objectives of international law and of the very stability of the international system itself depend critically on the national choices previously left to the determination of national political processes, whether it be the application of particular rules, establishing institutions or even engaging ineffective governance. (Burke-White et al., 2006)

7. Environmental preoccupations

COVID-19 and environmental protection, including biodiversity conservation, are directly related. According to credible scientific reports, the Coronavirus originated in the Wuhan (China) seafood market, where wildlife is traded illegally, including birds, rabbits, bats, and snakes. In addition, some scientists believe that the genetics of the Coronavirus are almost identical to those

found in bats. Thus, environmental protection, particularly biodiversity protection, is directly related to COVID-19. In this regard, the international community must continue its efforts to address the ongoing challenges to biodiversity conservation, illegal wildlife trade, waste management and climate change.

8. The place of new technologies in international law

Social distancing and telecommuting have shown the extent to which social media and virtual communications are necessary for humanity. As a result, existing international law will become a new law based on new technologies and virtual life. In this regard, new technologies are changing international legal institutions and the behaviours and communications of international actors.

Finally, the Coronavirus pandemic, which has created unimaginable devastation and hardship for the international community, is changing international law's substance and institutional parts. This outbreak has and will have profound and lasting economic, political and social consequences in every corner of the globe.

International law is evolving as a set of rules governing relations between States, international organizations, and individuals in a global context. In addition, the conflict between national sovereignty and the global values of society, such as environmental protection, sustainable development and human rights, remains unresolved.

International law must have the necessary ability to accept new reforms based on its democratization to

empower the decision-making process and improve the required transparency.

Conclusion

The international community has the right and obligation to reevaluate and rebuild international law based on the new economic, political and global situations. The codification and modification of international law are crucial for the future development of international law. International law is facing some of the most complicated dilemmas in international relations. The current international relations are based on the use of force, self-defence, humanitarian action, cyber threats, the role of non-State actors and global public opinion. In addition, the lack of leadership and global governance by prominent global bodies, particularly the Security Council, faces new challenges in international law.

The sources of international law as enumerated in Article 38 of the Statute of the International Court of Justice and (conventions, custom, general principles of law as well as jurisprudence and doctrine...) are insufficient for the development of international law. Therefore, the need for an evolution of the sources of international law is crucial in this matter.

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