



Challenges of the time, role and mission of modern international law

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Abstract

Thro history, since its inception, especially after World War II, international law has served as a fundamental tool for adjusting the behaviour of States and other actors in progressive development. Today, international law continues to fulfil its important mission in combating war of aggression, ining international peace and security, defending national sovereignty, protecting human rights, safeguarding resources and the environment, protect the material and spiritual heritage of humanity, supporting and promoting international cooperation... In the past, as supremacism tends to emerge, the great powers are taking over and re-shaping the world order ^[3], in Vietnam as well as around the world, there have been assertions that international law seems to be weakening and playing no significant role for the contemporary world and for Vietnam. This article aims to clarify the challenges posed by the times and the role, the mission, of modern international law in addressing these challenges.

Keywords: International law, challenges, peace, war

Introduction

As a parallel legal system that exists independently of the national legal system, international law, has basic characteristics such as

1. International law is constituted on the basis of the agreement of the subjects of international law, which are first and foremost States, the most fundamental units of international society, on the foundation of the principle of respect for sovereignty and the fundamental principles of International Law;
2. Contemporary international society has no common government. International law has no specialized and concentrated authority to ensure the enforcement of the law on the basis of the principle of order, coercion as in national law (policies, inspectors, law enforcers, etc.). Subjects of international law are bound only by international rules that they approve through the negotiating struggle to construct international legal rules. The voluntary and good-will enforcement of the norms of international law is one of the fundamental principles of International Law. *Pacta sunt servanda*;
3. The jurisdictional institutions of international law (the International Court of Justice - ICJ, the International Tribunal for the Law of the Sea - ITLOS; the Tribunal of Arbitration established under Annex VII to UNCLOS, the Permanent Tribunal of La Haye - PCA,) are largely not of course competent. In international law, jurisdictional institutions are normally competent only with the approval of the competent State/party concerned;
4. The system of sanctions and the way in which they are applied in modern international law is rich and diverse. On the basis of the nature and extent of the violation that can be imposed disarmament sanctions such as: suspension, blockade of part or all economic relations,

rail, maritime, air, postal, telegraph, radio and other means of transport, interruption of diplomatic relations. or if the de-armed sanctions are deemed to be inadequate or to be unsatisfactory, the sanctions may be applied by means of armed force. At the same time, with the emergence of a new branch of law: international criminal law, criminal sanctions have emerged in modern international law to apply to individuals who commit crimes against humanity, genocide, war crimes, crimes of aggression ^[4].

Subjects of international law are entities that participate in international relations independently, have full international rights and obligations and are able to assume international legal responsibility for acts committed by such entities. The State is the primary, fundamental and primary subject of international legal relations. The state is central to international legal relations, or in other words, the international legal relationship arises mainly between states. The State is the primary foundation for the emergence, existence and development of international law. Modern international law today recognizes participation in international legal relations as

- a. Intergovernmental organizations,
- b. Peoples struggling for their right to self-determination, and
- c. Territories with special legal status. There is the view that individuals, legal entities, and non-governmental organizations carry the characteristics and characteristics of a subject of international law ^[2]. The subjective issue of modern international law remains unified; it requires continued research and the submission of valid scientific-practical arguments in order to soon reach a common consciousness.

It can be affirmed that international law has a role and importance in building a rule-based world order, promoting relations between nations and strengthening multilateral cooperation. International law is the foundation of equal, equitable relations between nations.

Evaluate document

In the study of modern international law, many scholars around the world have made opinions and assessments. The scholars have studied, analyzed and evaluated every aspect of international law or a general, general assessment. Matthew Herdegen^[7] in his study on "Security in Modern International Law" affirmed the crucial role of security in the international legal order and the challenges posed by a number of current security solutions. According to Abdulkadir Muhammad, law is the set of rules generally regarded and accepted as binding in relations between states and between nations^[6]. It serves as a framework for the practice of stable and organized international relations^[11]. International law differs from state-based legal systems in that it is primarily applicable to countries rather than to private citizens. Primarily international law is concerned with relationship between states, but however with recent developments and events that occurs in last and present century. It is inevitable that international law has gone beyond governing relationship between states^[1]. Mattias Kumm argues, in contemporary times, international law's paradigm, scope and nature have widened and diversified. 'Contemporary international law has expanded its scope, loosened its link to state consent and strengthened compulsory adjudication and enforcement mechanisms'^[10]. In addition, many scholars have studied, analyzed, commented, assessed the nature, role, characteristics, institutions, of traditional international law as well as modern international law and the conventions, treaties, agreements that have been signed, implemented.

Results and discussion

In the face of the drastic transformation of modern world order and security, the role of international law is becoming more important than ever. After studying international law as well as researching sources of documentation, the authors analyzed, assessed and pointed out the challenges of the time and thus pointed to the role and mission of modern international law. The specific results are as follows:

1. The world's challenges

First, the world is facing two strategic challenges

One is, the post-Cold War period is definitely over and a competition is ongoing between the powers to re-shape the world order in the years to come. The most pressing strategic challenge the world faces comes from the foreign policy of reconsidered, patriarchal countries. It is their behavior that poses a challenge to international peace and stability - especially the conduct or preparation for war of aggression, the invasion of other national territories, the active interference in the internal affairs of other nations, the use of technology and supply chains to coerce and threaten other peoples. In that context, the observance of the fundamental principles of international law of self-determination, territorial integrity and political independence, must be further promoted, international institutions must be strengthened, States must be free to choose their foreign policy, information must be freely

circulated, universal human rights must be maintained and the global economy must operate on an equal footing and provide opportunities for all nations.

Secondly, while this competition is going on, every country around the world is struggling to cope with the impact of other common cross-border challenges, such as climate change, food insecurity, infectious diseases, terrorism, genocide^[9], energy shortages or inflation... Essentially, these challenges require countries to cooperate if they want to address them effectively.

Second, the world is becoming increasingly divided and unstable.

The rise in global inflation since the start of the COVID-19 pandemic has made the lives of many people in many countries difficult. The global economic challenges caused by the COVID-19 pandemic have expanded and deepened, the demand for recovery has gone far beyond the capabilities of suppliers and has hampered global supply chains. Consumers and policymakers around the world have also been struggling with rising energy prices and rising food insecurity, which exacerbates security challenges such as migration and corruption. The COVID-19 pandemic has eroded developmental achievements and shed light on the world's persistent inequalities. Prolonged conflicts, increasing fragility, the rise of superstitionism and climate shocks are increasingly threatening the lives and livelihoods of people and global stability. The Russian war in Ukraine has exacerbated these threats, contributing to rising food and energy prices, aggravating poverty and eroding food security worldwide.

Third, weapons control and non-proliferation

The proliferation of nuclear, chemical and biological weapons is an extremely serious and long-lasting global challenge that requires sustained cooperation to curb the spread of weapons of mass destruction and fissile materials, their means of transport and enabling technologies. In the field of the possibility of using threats of the use of force and nuclear weapons, the Advisory opinion adopted in 1996, in paragraph 47, indicates that in order to reduce and even eliminate the threat of aggression, the State that is under attack signals that it has certain quantitative or qualitative types of arms, which, accordingly, can be used to preserve sovereignty and statehood^[8]. Therefore, in order to control this issue, international cooperation is needed in compliance with the provisions of international law to strengthen weapons control mechanisms and the non-proliferation of destructive arms, especially in times of conflict when the risk of escalation is greater. Efforts are needed to control bilateral and multilateral weapons and to strengthen existing regimes, frameworks and institutions, including the Treaty on the Non-Proliferation of Nuclear Weapons, the Comprehensive Test-Ban Treaty Organization, the International Atomic Energy Agency and other United Nations agencies, to further expand the record of non-nuclear use. There needs to be support for the Organization for the Prohibition of Chemical Weapons and the Convention on Bio-weapons, and to strengthen the rules against the possession and use of chemical and biological weapons. At the same time, coordinated efforts are needed to manage nuclear and radioactive materials as well as prevent illicit sales; ensure multilateral export controls for these materials and adjust export policies in the countries concerned.

Fourthly, science and technology

Science and Technology is at the heart of geopolitical competition today and the future of nations. This means that promoting scientific and technological advances and cooperation among nations, to exploit and scale new technologies, while promoting the underlying technologies of the 21st century, especially microelectronics, advanced quantum and computer technology, artificial intelligence, biotechnology are posing enormous challenges to each country, region and globally.

It is therefore necessary to build and perfect the international legal framework to promote an international technological ecosystem that protects the integrity of the development of international standards and promotes the free flow of data and ideas with credibility, while protecting security, privacy and human rights as well as enhancing the healthy competitiveness of each country.

Fifth, cybersecurity

The world today, and within the scope of each country, our societies and critical support infrastructure, from power to pipelines, are increasingly using popular digitization and vulnerable to interruption or destruction through cyber attacks. Such attacks have been used by a number of countries to undermine the ability of other countries to provide services to their people and to coerce them; threatening national security.

Friday, anti-corruption

Corruption is a fundamental threat to the rule of law. When government officials abuse public power for private gain, it deteriorates the business environment, undermines economic opportunities, and exacerbates inequality. Corruption also contributes to lowering public confidence in state institutions. In today's globalized world, international financial systems are used to keep illegal assets abroad and send bribery across borders. In order to prevent corruption and strengthen legislative initiatives to recover corrupt funds as well as to identify and recover money earned from crime,... diplomatic intervention needs to be enhanced and expanded, the international legal system and national law need to be perfected, including by strengthening the capacity of governments to combat corruption in cooperation with national law enforcement agencies and by enhancing the preventive and supervisory capabilities of national institutions.

Saturday, international law is being seriously challenged

The laws and fundamental principles of international law that govern relations between nations, including the Charter of the United Nations, are being violated and seriously challenged.

Now, some countries, in their own way, are deliberately violating the basic principles of international law, seeking to reformulate the international order, in order to create a world favourable to totalitarianism to satisfy their narrow national interests. The risk of conflict between nations and between the great powers is increasing. Competition for the development and deployment of fundamental technologies will transform the growing global economy and security. The global co-operation of common interests has been torn apart, undermined. China's rise as an economic giant continues with many economic, diplomatic, and military consequences. Decades-old hotspots persist, including the

conflict between India and Pakistan, North Korea and the United States, Israel and guerrillas in the Southern Libyan region as well as in the Palestinian territory, and Russian military operations in Ukraine are destroying vital civilian infrastructure on a daily basis, driving millions of civilians to migration and death.... Today, massive terror attacks can also be qualified as 'acts of aggression' or a 'breach of the peace' in light of Art. 39 of the UN Charter. Following the terror attacks in Paris in November 2015, the UN Security Council has stated that the so-called 'Islamic State' 'constitutes a global and unprecedented threat to international peace and security' and called upon the UN Member States to take all necessary measures to fight against this terrorist organization ^[12].

Non-governmental actors, sponsored by a number of states, are exploiting the digital economy to raise funds and transfer funds to support illegal weapons programs, terrorist attacks, ethnic conflicts and blackmailing honest people, or conducting cyber attacks on national health systems, institutional finance and critical infrastructure... Some nations, with their patriarchal anti-governmental, large-scale, ambitious scholarship, are deliberately misinterpreting, invoking and applying international law to justify and legitimize their illegal ambitions and behaviour ^[3], especially in the face of the aggressive, illegal actions of some of the present-day powers in the South China Sea. More extreme, they're deliberately rewriting international law in their own style and design.

This has been and is ringing the warning bell that: The fundamental principles of international law of the right to self-determination, territorial integrity and political independence of States, respect for fundamental human rights, etc. They are seriously challenged and need to be respected and protected.

2. Role and mission of international law

To address the most difficult problems facing the world, as mentioned above, the greatest challenges of our time, from the COVID pandemic to climate change, peace and security, human dignity and human rights, the international community needs to create a broader and more effective level of cooperation. One of the most effective tools to address these enormous challenges is international law.

The vast majority of nations want a stable and open rule-based order that respects their sovereignty and territorial integrity, provides for fair economic exchanges with other nations and promotes common prosperity as well as allows cooperation to address common challenges; strongly opposes acts of aggression, coercion and external intervention. The vast majority of nations on the planet are concerned about stopping acts that are disrupting old rules and norms to make the world safer. International law is an effective tool for realising those goals. International order and a rule-based world are the foundations of global peace, security and prosperity.

Thus, it can be affirmed that international law plays a very important role in the contemporary world

- The principles and norms of international law govern all relations between States and create a framework for cooperation between States in almost every area of international life. This role is becoming more and more important in the context of increasingly widespread globalization and cooperation between nations becoming increasingly urgent in solving global

problems and problems that arise between the countries involved.

- Create a legal basis for building a rule-based world order. The world order based on the basic principles of international law enshrined in the Charter of the United Nations has in fact many flaws, but it is clear that this world order is very different from the medieval world order in which power is used as a primary tool in relations between nations. Juridically, in the present world order, all sovereign nations, whether large or small, strong or weak, developed or not, have equal rights, have the right to live in peace, to develop and prosper.
- Provide the legal basis for resolving disputes and disagreements arising between States in international relations. International law stipulates that all States have an obligation to resolve international disputes by peaceful means; no use of force or threat of force in the settlement of international dispute.

It is an important legal instrument for States to protect their independence, sovereignty, unity, territorial integrity, rights and legitimate interests under international law.

Without international law, the world would be chaotic and anarchic; humanity's survival would be seriously challenged when the arsenal of weapons of mass destruction (thermal nitrate, micro-weapons, chemical toxins, etc.) is in the hands of a few powers. Small, weak nations -- which make up more than 85 percent of the world's 200 countries - - would hardly survive if the laws of the strong man were to prevail. The flow of trade, finance, credit, investment, labor, science and technology can hardly be sustained unless it is regulated by treaties and agreements between nations - the foundations of international law. International peace and security, especially at sea, would be in crisis without the United Nations Charter and the 1982 UN Convention on the Law of the Sea.

Conclusion

We can affirm that the role and mission of international law in the world today is of paramount importance in addressing the challenges of our times, especially in promoting global peace and prosperity. International law is playing an increasingly important role for the community of nations, including Vietnam, as the world gets closer and closer, the process of globalization becomes deeper and deeper, and cooperation among nations to safeguard world peace and security and solve global issues becomes more urgent than ever. Principles and norms of international law are widely recognised, applied by the community of States and have been recorded in the Charter of the United Nations, universal legal instruments, multilateral, regional and bilateral international treaties that govern relations between States and provide the legal framework for cooperation between States in almost every area of international life; provide a legal basis for the construction of a law-based international order; and are an important legal instrument for States to protect their legitimate rights and interests.

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