INTERNATIONAL LAW INTERNATIONS AND HUMAN RIGHTS

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Abstract

International law, also known as public international law and law of nation is the set of rules, norms, and standards generally accepted in relations between nations. The sources of international law include international custom (general state practice accepted as law), treaties, and general principles of law recognized by most national legal systems. Human Rights are the basic rights and freedoms to which all human beings are entitled, like civil and political rights, the right to life and liberty, freedom of thought and speech/expression, equality before the law, social, cultural and economic rights, the right to food, the right to work, and the right to education. In short, human rights are freedoms established by custom or international agreement that protect the interests of humans and the conduct of governments in every nation. Human rights are distinct from civil liberties, which are freedoms established by the law of a particular state and applied by that state in its own jurisdiction. Human rights laws have been defined by international conventions, by treaties, and by organizations, particularly the United Nations. These laws prohibit practices such as torture, slavery, summary execution without trial, and arbitrary detention or exile.

Keywords: *Human Right; International Law; Internation.*

A. INTRODUCTION

The question of international law always gives the impression of interest to discussed. This topic continues to provide a high appeal to everyone. In theory of international law refers to the rules and norms that govern actions of states and other entities that at some point will be recognized have an international personality, such as international organizations and individuals, in conjunction with one another[1].

Countries need to live together. International law conceived and born because the needs and designed to achieve order and peace in the world. Something system that aims to make the country to participate, the principal of the system international law which states that everything is treated as the owner sovereign equality.

Along with the times, international law has also been growing. Since international relations is increasing ahead of the 19th century international law become a universal system and in

1 I Brownlie, Principles of Public International Law (7th edn, Oxford University Press, 2008) ISBN 0-19-926071-0, P. 89

the 20th century has an extension that is not no equal[2].

The First Geneva Convention (1864) is one of the earliest formulations of international law. The concept of sovereignty was spread throughout the world by European powers, which had established colonies and spheres of influences over virtually every society. Positivism reached its peak in the late 19th century and its influence began to wane following the unprecedented bloodshed of the First World War, which spurred the creation of international organizations such as the League of Nations, founded in 1919 to safeguard peace and security. International law began to incorporate more naturalist notions such as self determination and human right.

The Second World War accelerated this development, leading to the establishment of the United Nations[3], whose Charter enshrined principles such as nonaggression, nonintervention, and collective security. A more robust international legal order followed, which was buttressed by institutions such as the International Court of Justice and the United Nations Security Council, and by multilateral agreements such as the Genocide Convention. The International Law Commission (ILC) was established in 1947 to help develop, codify, and strengthen international law.[4]

Having become geographically international through the colonial expansion of the European powers, international law became truly international in the 1960s and 1970s, when rapid decolonization across the world resulted in the establishment of scores of newly independent states. The varying political and economic interests and needs of these states, along with their diverse cultural backgrounds, infused the hitherto European-dominated principles and practices of international law with new influences. A flurry of institutions, ranging from the World Health Organization to the World Trade Organization, furthered the development of a stable, predictable legal order with rules governing virtually every domain. The phenomenon of globalization, which has led to the rapid integration of the world in economic, political, and even cultural terms, presents one of the greatest challenges to devising a truly international legal system[5].

Efforts toward the settlement has become an important concern in the international community since the beginning of the 20th century These efforts are aimed at creating relations between countries are better based on the principles of peace and international security.

2 Dominique Carreau, Droit international, Pedone, 10e édition, 2009 ISBN 9782233005618, P. 145-146

3 P.-M. Dupuy & Y. Kerbrat, "Droit international public" (10th ed., Paris, Dalloz, 2010) ISBN 9782247088935, P.xii

4 E. Lawson, and ML Bertucci, Encyclopedia of human rights (2nd edn Taylor & Francis 1996), P. 98

5 E. Osmanczyk, The encyclopedia of the United Nations and international relations (Taylor & Francis 1990), p. 65-66

That's very interesting to be discussed, the authors raised the legal title international for this paper.

B. DISCUSSION

1. Definition of International Law

International relations according to the book Foreign Policy Implementation Strategy Plan Affairs is the relationship between nations in all its aspects is done by a country to achieve the national interests of the country. International law is the applicable laws of two or more states regulating scale activities of International. International law is the law of nations or between nations show on the complex principles and rules that govern the relationship between the public nations or countries[6].

The following describes the notion of international relations in the opinion some experts, including:

a. Tygve Nathiessen
   International Relations is part of political science and therefore components International Relations component covering international politics, organization, international administration and international law.
b. Charles A. MC. Clelland
   International relations is the study of the relevant circumstances and around interaction.
c. Hugo de Groot
   International relations based on the free will and consent of some or all countries

2. Nature of International Law

In general, international law is defined as the set of rules and rules terms that bind and regulate relations between states and other legal subjects in the life of the international community. The legal definition given by the international law experts well-known in the past as Oppenheim and Brierly, confined to the state as the only legal actors and not insert other legal subjects.

However, with the rapid development of science and technology in the second half 20th century and the pattern of international relations are increasingly complex this sense then widespread that international law also deal with the structure and behavior international organizations, supranational groups and liberation movements national liberation. In fact, in some cases, international law also applied of individuals in relation to the countries[7].

Meanwhile, in the opinion of another scientist said that International law is the overall rules and despair and the legal

6 M. N. Shaw, International Law (5th edn Cambridge University Press 2003), p. 21

7 Rafael Domingo Osle, The New Global Law (Cambridge University Press 2010), p. 176

principles governing the relationship or issues that cross national borders, namely international relations be civil.

Besides international law can be defined as the whole law for the most part consists of the principles and rules of behavior for him countries felt himself bound to obey and thereby actually adhered to common in their relations with one another, and includes also[8]:

a. The rules of law relating to the functioning of the institutions or international organizations, the relationships between them to one another, and their relations with other countries and individuals.
b. Certain legal norms relating to individuals and biro-non-state entities as far as the rights and obligations of individuals and non-state entities it is important for the international community.

Based on some of the above understanding can be concluded that international law is part of the law governing the activities of an international entity or an overall rules and principles governing the relationships or issues that cross boundaries between the state and country to country with other legal subjects is not a country or law is not a state subject to one another.

8 Giuliana Ziccardi Capaldo, "The Pillars of Global Law" (Ashgate 2008), p. v-vi

3. Types of International Law

There are two kinds of such international law, namely:

a. The international public law is international law which governs the state with one another in international relations (this law is called interstate law).
b. The international civil law is international law which governs the citizens of a country with citizens who come from other countries (This law is called the law of nations).

4. Sources of International Law

Term sources of international law have the meaning of material and formal meaning. Source law in material sense to question the content / material law, while the source of law in the formal sense or container shape questioning the rule of law. Here is an explanation of the two sources of international law, namely material and formal.

a. Sources of Law Petition

Legal source material is a source of law that addresses the basic material the substance of the law-making itself or principles determine the content of the applicable rules of international law.

Legal source material can also be interpreted as the power base binding international law. There are several theories that explain the basic binding force of

international law. These theories are as follows.

1) Natural Law Theory (Naturalist)

According to the followers of the doctrine of natural law, the basis of legal binding force internationally because international law is part of the law higher, yaituhukum nature. Teachings of natural law has been successfully raises the reluctance of international law and has laid the foundation moral and ethical value to international law, as well as for the development of next. Figures theory of natural law was Hugo Grotius. Hugo Grotius based system international law for the entry into force of natural law inspired by the human intellect and practices of state and state treaties as a source of international law. On his opinion, Hugo Grotius of Holland known as the Father International law[9].

2) Sovereignty theory (positivism)

According to the flow sovereignty theory, the basis of international law binding force the will of the state itself to comply with international law. figures from figure in the theory of sovereignty among others Hegel and George Jellineck of Germany. In connection with this theory, Zorn found that international law does not other than constitutional law governing the affairs of a country. International law is not something that has a higher binding strength to involuntary countries. Theories that basing force of the international law will of the state[10] (voluntarist theory) reflects on the theory sovereignty and flow of positivism that dominate the minds of the legal world in Continental Europe, especially Germany in the nineteenth century[11].

3) Objectivity theory

According to the flow objectivist theory, the basis of international law binding force is a legal norm, not the will of the state. The founder of the theory of flow or known as the school of Wiena. Wiena sect teachings restore all things to a basic rule (Grundnorm). Wiena sect leaders are Hans Kelsen

9 World Encyclopedia of Law, with International Legal Research and a Law dictionary and see also David L. Sloss, Michael D. Ramsey, William S. Dodge, International Law in the U.S. Supreme Court, 0521119561, 978-0-521-11956-6 Cambridge University Press 2011, P.349

10 *Ibid.*

11 *Ibid.*

(of Austria) which is considered as the father of the school of Wiena. Kelsen argued that the principle of pacta sunt servanda as a basic rule (Grundnorm) international law. Pacta sunt servanda is the principle that treaties between countries must be respected[12].

b. Formal Legal Resources
Formal legal sources in international law asserted in the Statute of the Court International article 38 paragraph (1). According to article 38 paragraph (1) Statute of the International Court, the sources of international law used by the Court in hear the case as follows.
1) International agreements
International treaties become major or primary legal source of international law is an international agreement (treaty) well-shaped law making treaty or treaty in the form of contract. Law making treaty means an international agreement that sets conditions generally accepted international law. The contract means the agreement treaty establishing international provisions of customary international law which applies to two or more parties that makes and applies exclusively to these parties[13].

According to article 38 paragraph (1) Statute of the International Criminal Court, international treaties is a major source of other sources of international law. That matter can be demonstrated, especially in international activities today are often based on the agreement between the subjects of international law have the same interest.

2) Customary International
Customary international (international custom) is a proven habit in general practice and accepted as law. For example, welcoming guests from other countries and the provision requiring an installation of lights for sailing ships at night on the high seas to avoid crash.

3) General Legal Principles
The definition of the general legal principles here are the principles of law underlying the modern legal system, which includes all general legal principles of all the national legal system that

12 Anaya, S.J. (2004). Indigenous Peoples in International Law. Oxford University Press. ISBN 978-0-19-517350-5, p. 553

13 Klabbers, J. (2013). International Law. Cambridge University Press. ISBN 978-0-521-19487-7, p. 127

could be applied to the relationship international. With the principle of common law, the International Court of Justice was given the freedom to form and discover new law. Therefore, there is no reason for the International Court of Justice to declare nonliquet or refused to hear there is no law that regulates issues filed.

4) The court decision
The court's decision is meant as a source of international law by Charter of the International Court of Article 38 paragraph (1) sub d is the judgment in broad sense and includes all sorts of international and national courts including court and arbitration commission. the Court's is meant here is the Permanent International Court of Justice, the International court and Permanent Arbitration Court[14].

5. Principles of International Law

Principles of international law constitute general principles manifest in international law. There are several principles of international law, among others: the principle of territorial, the principle of nationality and the principle of public interest.

a. The territorial principle is a principle which gives the right to each country to carry out the laws in force in the country of all persons or goods within the territory of the country. Pleased with this, then all people and or goods that are outside of the territory of a country will apply a foreign law or international law.
b. The principle of nationality is a principle that recognizes the power of the state against citizens. According to this principle, every citizen wherever he is still can obtain the legal treatment of the country. The principle of nationality has ekstraterritorial power which means the applicable law in a country still can apply to citizens though such citizens are in the country more.
c. The principle of public interest is a principle based on the recognition of their authority of the state to protect and manage the interests in life community. Where countries can adapt to all circumstances and events related to the public interest, so that the law is not only bound to certain state borders.

In the current discourse on the viability of the establishment of human settlements in outer space, the

14 Shaw, M.N. (2014). International Law. Cambridge University Press. ISBN 978-1-316-06127-5, p. iii-iv

emphasis is primarily on the development of the necessary technical and scientific expertise to enable states and private entities to achieve this objective. It is, however, suggested that the legal issues concerning such an endeavour are equally important for the successful accomplishment of the said objective. In this regard, the proper regulation of legal relationships is paramount, although it must at the same time be accepted that the unpredictability of human nature and the self-interest of nation-states present a major stumbling block against ensuring that everyone will at all times toe the agreed upon legal line. Nevertheless, due to the very special circumstances under which such a settlement will operate in outer space, no legal regulation whatsoever will undoubtedly make the situation much worse. The creation of the necessary legal rules on this level is a slow and complicated process, and it needs the immediate attention of the international community of states and private enterprises involved in the exploration of outer space. The rapid technical and scientific developments in this area are in stark contrast to the scant attention paid to the legal issues underpinning these developments.

The international context of the outer space legal regime requires that a credible international organisation with the necessary capacity and representative of the vast majority of states be the driving force behind a total review of the current and the enactment of a future outer space legal regime. The United Nations, specifically its Committee on the Peaceful Uses of Outer Space, seems to be the only body that can successfully undertake such a mammoth task within the near future. After all, the United Nations achieved this with the law of the sea in a relatively short period. In this respect valuable lessons could be learned from the drafting of the treaty on the law of the sea. One of the most important, we suggest, is avoiding the pitfall of using existing and known earthly concepts and definitions to explain and regulate activities and relationships in outer space. The particular and distinctive nature of and circumstances prevailing in outer space must be taken into account. Any legal arrangements concerning the establishment of settlements in outer space will of necessity be only preliminary as it can be expected that as the process unfolds and technology develops adaptations and amendments will have to be made, sometimes fairly rapidly. The current legal arrangements concerning the exploration and use of outer space contained in the relevant treaties are not much more than broad principles. The need for more detailed, clear and binding legal rules is evident, also with regard to the protection of the fundamental rights of individuals.

The difficulties still encountered in defining certain key concepts (such as an artificial island and a permanent establishment) 79 in the application of the law of the sea might be instructive in this regard. Similar issues would without a doubt also form part of any endeavour to codify outer space law. The task at hand is technically and legally complicated and time is of the essence.

C. CONCLUSION

International law is the law of nations or between nations show on the complex principles and rules that govern the relationship between community of nations or countries. In essence, international law is defined as the set of rules and rules terms that bind and regulate relations between states and other legal subjects in the life of the international community. Types of international law consists of international public law and the international law civil. Sources of international law consists of source material law which includes natural law theory (naturalist), the theory of sovereignty (positivism) and theory as well objectivitas formal legal sources include international treaties, international custom, principle general laws, and court decisions. Principles of international law consists of the territorial principle, the principle of nationality, the principle of public interest, the principle of pacta sunt servanda, the principle egality rights, reciprositas principle, the principle of courtesy, rebuc sic stantibus principle, the principle of equality, the principle of transparency, principle nebis idem, juice cogents principle, and the principle of inviolability and immunity. According to Starke, the subject of international law consists of state, the Holy See, the red cross international, international organizations, individuals (people), a rebel, and the parties to the dispute. The function of international law consists of managing the implementation of a just war, realize the security and peace, stopping the arms race, set international relations, and punish war criminals. The purpose of international law is to improve foreign relations, either in political and economic terms, to create international relationships regular to realize and ensure fairness in international relations in among the countries objectively, this is indicated by the formation of International Court of Justice in the United Nations. International law actually has long been known eksisitensinya, ie on Ancient Roman times. Ancient Romans knew two sets of laws: Ius Ceville and Ius Gentium, Ius Ceville is the national law applicable to the Roman society, wherever they are, while the Ius Gentium are legal applied to foreigners, who are not nationals of the Romans. Basically, the role of international law more focused on ways to resolve the problems that occurred in the international scope.

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