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Historical Development of International law, Insights from Ancient to Contemporary Societies

التطور التاريخي للمجتمع الدولي، من المجتمعات القديمة إلى المعاصرة

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Abstract:

This article traces the evolution of international law throughout history, from ancient civilizations such as Mesopotamia, Egypt, and China to distinct historical periods like the Middle Ages and the modern era. It highlights geopolitical and technological shifts that shaped the development of international law, emphasizing the role of international organizations in promoting global cooperation and human rights.

The article also addresses current and future challenges facing international law, aiming to foster a more equitable and just global community.

Keywords: International Law; Historical Development; Ancient Civilizations; Middle Ages; Modern Times; International Organizations; Global Challenges

الملخص

تأتي هذه الدراسة للتطرق إلى تطور القانون الدولي عبر التاريخ، بدءاً بالحضارات القديمة مثل ما البابلية، الفرعونية والصينية إلى الفترات التاريخية المختلفة مثل العصور الوسطى والحديثة، يسلط المقال الضوء على التحولات الجيوسياسية والتقنية التي شكلت تطوير القانون الدولي، مع التركيز على دور المنظمات الدولية في تعزيز التعاون العالمي وحقوق الإنسان.

كما يناقش المقال التحديات الراهنة والمستقبلية التي تواجه القانون الدولي، بهدف تعزيز المجتمع العالمي بما يتسم بالعدل والمساواة.

الكلمات المفتاحية: القانون الدولي، التطور التاريخي، الحضارات القديمة، العصور الوسطى، العصر المعاصر، المنظمات الدولية، التحديات العالمية.

1. INTRODUCTION

Law is thus inherently allied with the founding of human society since organization involves a rule that regulates and shapes the relations of its participants. It was when men came together to make political units for the organization of human relationship, and to establish the basic structure of authority charged with the responsibility for keeping order and ensuring safety that there emerged the modern state. The plurality of states follows from the plurality of human groups. The economic, social, and humanitarian needs urged nations to cooperate, establish continuous relations governed by stable rules-what was known as the principles of international law.

The "international law" was for the first time coined by an English philosopher, Jeremy Bentham, in a work known as "An Introduction to the Principles of Morals and Legislation," whereby he used it to refer to the set of principles applied to the global community. Until recently, the more usual term was "Law of Nations, a term used by early writers on general law such as the Dutch jurist Hugo Grotius, the German jurist Samuel Pufendorf, and the Swiss jurist Emer de Vattel.

The definitions of international law has differed among scholars because they had different views on the scope and extent of the subject. In general, however, the definitions have tended to converge in describing public universal law as a body of legal norms operative within the international community, governing its basic units, and regulating their mutual relations. That separates the universal rule of law both from domestic legislation comprising rules applied only within a country and from

private international law which resolves conflicts between private laws of different states as applied to particular cases. Private international law establishes principles for jurisdiction of any state's legislation and the applicable law, while public international law regulates international relations.

Ancient societies played a foundational role in the development of international law, even though they lacked the organized structure seen in contemporary societies. They had types of relations governed by certain rules and regulations. This brings us to the following question: What are the historical stages through which international law has evolved to its contemporary form?

To answer this question, The approach will be both historical, examining different periods, Starting from 3100 B.C. to the present day, and descriptive, outlining the characteristics of international law at each stage, and we will outline four stages: international law in ancient times, international rules in the Middle Ages, international rules in the modern era, and finally, contemporary international rules.

2. The International Law in the Ancient Age 3100 B.C-476 B.C

The Ancient Age did not witness an international community in its modern sense, as relations were primarily between monarchs and princes rather than between peoples and states. Essential elements of an international society were missing due to the isolation, self-sufficiency of societies, and difficulties in transportation, resulting in limited knowledge of each other's existence. However, this does not negate the presence of some rudimentary rules of international society in ancient times. In his work "The

Spirit of the Laws," Montesquieu asserts that all peoples had a general international law. To investigate and confirm the existence of international relations and rules between ancient political entities, it is necessary to distinguish between two phases: the phase of the international community in the Ancient Orient and the phase in the Ancient Occident.

2.1. The International Society in the Ancient Orient

It included four civilizations :

2.1.1. Mesopotamia

Mesopotamia developed more structured principles of international law, such as declaration of war must always precede the war, recognition of arbitration, and the creation of treaties in maintaining peace. There are various historical records that establish the fact that rulers of Lagash and Ouma cities made a treaty where maintenance of border integrity and respect for arbitration institution to resolve disputes was brought about. This was particularly with the rise of trade and commercial ties. This was crucial for establishing mutual relations between peoples.¹

2.1.2. Egyptian Civilization

The civilization of the Pharaohs witnessed early forms of diplomatic relations, such as the treaty between Ramses II the Egyptian Pharaoh and Hattusili III the King of Hatti in 1279 B.C. This treaty, one of the oldest in history, provided for mutual defense in case of external attacks and established extradition agreements. Additionally, wide-ranging commercial treaties were made to strengthen bilateral ties.²

2.1.3. Chinese Culture

Ancient China saw early examples of international law through trade relations with India and Rome. The philosopher Confucius advocated for an international organization akin to the modern United Nations to foster unity among peoples. Laozi called for the prohibition of wars and international sanctions against violators of peace. The Chinese civilization also enjoyed freedom of belief, unity among its people, and established diplomatic representation.³

2.1.4. Indian Civilization

The Indian culture saw the enactment of the Manu laws around 1000 B.C., which included rules on the conduct of wars, international humanitarian law, and diplomatic law.⁴

2.2. The International Law in the Ancient Occident

It included:

2.2.1. Greek Culture

Comprised of independent city-states, the Greeks developed rules to govern interactions between them. They adopted arbitration for resolving disputes and established protocols for war, such as declaring war beforehand, extradition, and the respect for temples as sanctuaries.⁵

However, these rules applied only to Greek city-states, as Greeks viewed non-Greeks barbarians as having no rights and subject to enslavement.⁶

2.2.2. Roman Civilization

The Romans initially applied Roman civil law exclusively to themselves but later extended it to Latin subjects, known as the

"ius gentium" or law of nations. Increasing numbers of foreigners prompted the Romans to create a separate body of law for them. Relations with other nations were governed by the "sacred divine law," overseen by priests during wars, peacetime, and in treaty enforcement. Treaties organized relations with other nations, protecting nationals of treaty member states within Roman territories. Peoples without treaties with Rome were subject to killing and theft.

Based on the above, it is evident that international relations in ancient societies were rare due to their isolation and lack of transportation. Moreover, there were no significant economic, social, intellectual, cultural, religious, linguistic, racial, or other ties between these societies.⁷

3. The International Law in the Medieval Age 476 A.D-1492 A.D

Most historians and international law scholars identify the Medieval Age as starting from the decline of the Western Roman Empire in 476 due to Berber invasions, ending with the fall of the Eastern Roman Empire Constantinople in 1453 to Mehmed II. This era witnessed the emergence of two distinct societies: Christian European societies that exerted dominance over other states, and an Islamic society originating in the Arabian Peninsula and expanding globally.

3.1. The Islamic Society

Islam emerged in the 7th century and within a short period, it diffused from Pakistan in the East to Andalusia in the West. The new religion streamlined international relations in keeping with its universal message that aimed to bring all peoples together under one law - namely the

Islamic Shari'a that was ordained divinely and valid universally.⁸

3.1.1. Universality of Islamic Sharia

The message of Islam was universal and for the whole humanity with no restriction to regions or peoples.

3.1.2. Religion of Peace

One of the peaceful requirements of Islam was a commitment to peace when a truce is proposed by another state.**3.1.3. Equality**

Islam, against the racial and linguistic incursions of Crusaders, required men to regard each other as having sprung from common stock..

3.1.4. Freedom of Belief

Islam conferred equal rights of security upon every citizen, including protection for religious freedom and prohibiting coercion in matters concerning belief.

3.1.5. Honoring Pledges

Islamic law placed great stress on fulfilling promises and maintaining treaties, seen as integral to peace.⁹

The Islamic world interacted directly with non-Muslim territories, notably Europe, in elaborating on principles of international law by means of religious provisions and rules.

3.2. The European Society

Following the Western Roman Empire's collapse in 476, Europe fragmented into kingdoms and monarchies whose interactions were characterized by conflict rather than legal frameworks. Key features

of this phase included:

3.2.1. Political Chaos

From the fall of the Roman Empire, the various territories of Europe and their respective monarchs ruled in a decentralized manner till the rise of Charlemagne to Emperorship in 800. Its closest resemblance to the contemporary federal system was also its hallmark that dualism of Pope and Emperor.¹⁰

3.2.2. Rise of Feudalism

Feudalism emerged during the 9th century forward, giving absolute power over discrete territories to feudal lords, which impeded independent states and international laws.¹¹

3.2.3. Church Influence

The Pope mediated disputes between European kingdoms, establishing a Christian European identity. Despite advocating for peace and regulating wars, the Church's control limited state sovereignty and excluded non-Christian states from European international community.¹²

3.2.4. d. Emergence of International Rules

This era saw the establishment of foundational international law principles, including distinctions between laws of war and peace, diplomatic protocols, council systems, and arbitration. However, these rules primarily applied within Europe, restricting their international scope.¹³

The Islamic Sharia played a significant role in shaping international relations, deepening international law, and promoting human rights by advocating for a unified legal system without discrimination. Islamic scholars dedicated chapters to international

relations in their writings, addressing treatment methods, relations between Muslims and non-Muslims, and rights and duties in war and peace.

Beginning with the peace treaty of Westphalia in the 17th century, which brought the Thirty Years' War to an end, the modern emergence of international law actually began. This landmark treaty symbolized the decline of papal authority, fostered equality among states, and established a framework that took into account international balance as a means of preserving peace and security in Europe.¹⁴

4. The Modern International Society 1492-1914

This was a time when feudalism had declined and the Pope and Emperor no longer commanded the influence they once did. Thus, a system of European international law appeared that regulated only relations among Christians in Europe. Initially confined to European civilization, the international community gradually expanded to include non-European realms that were Christian, most notably the newly independent American states at the turn of the late 18th century. According to Friedman, a few conglomerates of European and American states laid the foundation of international law in the 19th century. However, non-Western states remained peripheral or subordinate to the Western powers until the entry of Turkey in 1856 with the Paris Treaty, followed by Iran and Japan.¹⁵

The key factors that facilitated the emergence of the international society during this phase included:

4.1. The Scientific Renaissance

The emergence of the universities in Europe in the 13th century supported development of sciences, especially law.

Great lawyers like Machiavelli promoted the strengthening of Italian monarchies in his work "The Prince" 1513, and Spanish lawyer Vitoria proclaimed sovereignty and liberty in contemporary society. Suarez separated the law of peoples, international law from natural law and put more emphasis on state sovereignty, equality, legitimate war within the limits of international law and norms and treaties as sources of international law.

4.2. The Age of Discovery

The fact that the Bahamas were discovered in 1495 by Christopher Columbus had a fundamental effect on state relations and international law in their development, as this event initiated the competitive scramble for colonies by European powers. It also initiated the colonial expansion started by Portugal and Spain, which was dominated by treaties that divided the unexplored areas. With the age of geographical discovery came regulations that constructed modern international law: freedom of navigation and laws relating to territorial occupation and colonial domination.¹⁶

4.3. The Peace of Westphalia 1648

The Peace ending the Thirty Years War among European states, the Peace of Westphalia, stands as one of the earliest written international treaties that shaped modern European international law. Some of its cardinal principles are as follows:

- Recognition of the dissolution of the Holy Roman Empire into sovereign states.

- Limitation of the Pope's influence to religious matters, ending his political authority.

- Affirmation of state sovereignty equality regardless of religious beliefs.

- Acknowledgment of war as a legitimate state right.

- Establishment of permanent consulates for diplomatic representation, replacing temporary envoys.

- Recognition of treaties and norms as primary international law sources.

- Introduction of the principle of international balance to prevent one state's dominance, promoting equal force policies among European states.¹⁷

4.4. The French and U.S. Revolutions

The French Revolution-1789 The purpose of the French Revolution was to end the tyranny of the monarchy, to declare the rights of human beings and citizens concerning national sovereignty, individual freedom, equality before the law, freedom of belief, citizen freedom. All these have had a deep impact on history in international law.

The U.S. Revolution 1776 gave American independence from Great Britain and then came the adoption of the federal constitution in 1787. The presidential declaration 1823 by President Monroe explained U.S. policy concerning Europe. It emphasized no intervention by European powers in U.S. affairs, no occupation of U.S. lands, and no interference in any European question except for purposes of self-defense. The U.S. revolution introduces a non-European independent state which has been importantly influential on the development

of international law.¹⁸

4.5. The European Alliance

Formed under the Vienna Conference 1815, to stabilize European politics, maintain royal regimes, and eliminate public revolutions against monarchs, the European Alliance achieved several milestones:

- Restructured the European international balance based on the issue of legitimacy, ensuring respect for monarchy legitimacy within its own territories.
- Introduced intervention principles to quell public revolutionary movements, undermining sovereignty and equality among states.
- Organized international river navigation.
- Provided protection to diplomatic envoy.
- Prohibited slave trade.¹⁹

5. The Universal International Society – The Contemporary International Society –1914 until the Present

During this phase, these changes on the international plane were dominated by fundamental changes in the following aspects:

5.1. Emergence of International Organizations

The International organization as a phenomenon became prominent through the signings of treaties and conventions for the establishment and development of international cooperation. In the post-first World War period, the concept of international organization started to take concrete shape through the establishment of the League of Nations in 1919, with an

object to maintain peace in the world and regulate inter-state relations. Only after the dissolution of the League of Nations due to actions of World War II did the United Nations take its place and continue its work in 1945.

5.2. Universality of the International Society

During this period, international society greatly expanded. The new states were born into the international scene due to the fall of the colonial system under the liberation movement pressures that gave almost every nation their independence. These newly independent states formed themselves into blocs for collective defence in their interests. Secondly, the dissolution of the Soviet Union spurred on the national awakening within Europe through reunification efforts such as Germany and the rise of admission into the international society.²⁰

5.3. Global Division

The world was divided into political and economic blocs that were advanced by private interests, keen competition, Cold War rivalry, and non-aligned nations. The principal divisions were:

- The Western Bloc, led by the United States, which safeguarded Western Europe and established NATO (North Atlantic Treaty Organization).
- The Eastern Bloc, under the leadership of the Soviet Union, encompassed Eastern Europe and established the Warsaw Pact and Comecon (Council for Mutual Economic Assistance).
- Non-aligned states emerged amid liberation movements and aspirations for

independence.²¹

5.4. Scientific and Technological Advancements

Scientific and technological changes played major roles in the formation of international relations and law. The results of scientific findings were the basis for innovations that were important in the arms race and that required international collaboration to create rules and treaties. Some of the important conventions include the Moscow Treaty banning nuclear tests in the atmosphere and underwater and bilateral agreements on strategic nuclear weapons cuts.

5.5. Expansion of International Law Fields

International law has evolved to extend from political fields and cover the areas of human rights protection, protection of minorities, eradicating racism, and regulating social and economic features. Efforts in this direction included the formulation of foreign investments, functions of multinational corporations, Charter of Economic Rights and Duties as well as self-determination of peoples over their natural resources.²²

6. RESULTS AND DISCUSSION

6.1. The results:

- In the Ancient Era 3100 B.C - 476 B.C, there existed no international law as such but some sort of rude rules within and between the ancient civilizations of Mesopotamia, Egypt, China, and India. Basically, these rules were oriented to regulate a sort of interaction between monarchy and princes rather than peoples and states. It contained some sort of treaties,

machinery of arbitration, and diplomatic relations-laying the basic ingredient for future international relations.

- In the period commonly referred to as Medieval Period 476 A.D - 1492 A.D, and with it, a further development or evolution of the concept of international law. The Islamic societies, stretching from Pakistan to Andalusia, ordered their international relations in accordance with the principles of Sharia. These included principles on peacemaking, equality irrespective of race or language, freedom of religion, and the inviolability of promises. In Europe, during this period, it was a fragmented era following the dissolution of the Western Roman Empire into feudalism, with the rise of kingdoms to dominance. While the Church played an important role in solving conflicts and establishing norms, this also happened largely within the Christian circles.

- In the Modern International Society (European) 1492-1914, European powers began establishing more formalized international rules. Treaties like the Treaty of Westphalia 1648 acted as a landmark that set boundaries within the rules of sovereignty, ceremonial for diplomatic intercourse, and balance of power amongst the European states. The Vienna Congress 1815 went ahead to set a seal on these norms, where special emphasis was laid upon the principles of legitimacy and intervention, ensuring political stability within Europe.

- Within the Universal International community, that is Contemporary International Society 1914-Present, international bodies came into being following the end of World War I. These include League of Nations 1919 and United

Nations in 1945. These were meant to ensure that there is international cooperation, peaceful handling of disputes, and protection of human rights across the world. The Cold War polarized the world into political and economic blocs, with treaties dealing with disarmament, human rights protections, environmental controls, and economic cooperation

- These different epochs represent, in a nutshell, how international law has evolved from unsophisticated rules of ancient nations and states to institutionalized legal systems of the present day, shaped by geopolitical change, technology, and endeavors at global collaboration.

6.2. Recommendations

- Contemporary international law is incomplete and devoid of the uniformity and precision so common to domestic legal systems. In large measure, the reason for that lies in the variety of interests and priorities that sovereign states may have, and which often stand in the way of unanimous consensus on very important issues such as human rights, environmental protection, and global security.

- Enhancement of the mechanisms of compliance and accountability within international law structures. The improvement in the above-mentioned aspects can address issues at hand, such as the problem of non-compliance with treaties, the flouting of international judgments, or the cross-border enforcement of legal standards.

- Promotion of Universal Values; While progress has been made in promoting universal values like human rights and humanitarian law, achieving universal

adherence and implementation remains elusive. Bridging gaps between legal principles and practical application is essential for ensuring equitable protection and justice globally.

- Strengthening the roles and authority of international organizations-the United Nations and the regional bodies-in observance and enforcement of international law. This is giving them adequate resources, increasing cooperation among member states, and developing their capability for prompt response to crises all around the world.

- Addressing power imbalances among nations is fundamental to achieving a more equitable international legal framework. This involves reconsidering structures that perpetuate inequalities in decision-making and resource allocation, thereby fostering a more inclusive and representative global governance system.

7. CONCLUSION

History has evolved hand in glove with the conception of international law, in as much as humanity and human society have seen their development. From the rudimentary norms governing relations between monarchs in the ancient world, through the medieval period-hinging on religious influence and feudal structures-to the modern and contemporary eras-respectively shaped by geopolitical shifts and global cooperation efforts-international law has continued to evolve to meet the demands of societies and states as they change. It is in this journey that basic principles have been set up, international organizations have emerged, and legal frameworks have expanded to include various other aspects of human interaction at

a global level. This historical trend puts in perspective how international law has grown to become a key instrument in facilitating peaceful coexistence, cooperation, and justice between and amongst nations of the world.

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