

legal Personality of International Organizations, A Historical and Analytical Study of Its Evolution

Mahfoud Ikram*

University of Mascara/ Algeria
ikram.mahfoud@univ-mascara.dz

Asmouni khelifa

University Of Saida/ Algeria
Khelifa.asmouni@univ-saida.dz

Received: 27/04 /2025

Accepted: 03/06 /2025

Published: 30/06/2025

Abstract:

This article explores how the international legal personality of international organizations has evolved over time. Initially, collective efforts between states were limited to informal unions, commissions, and conferences that lacked a distinct legal identity. The article traces this progression from early European alliances to the establishment of the League of Nations, which, despite being the first global organization, was not recognized as having full legal personality.

The pivotal change occurred after World War II, with the creation of the United Nations. The advisory opinion of the International Court of Justice in 1949 confirmed the UN's juridical status, marking a significant step in international law. The paper emphasizes that international organizations, although distinct from sovereign states, have limited functional legal personality.

Keywords: Legal Personality, international organizations, international law, United nations.

Introduction :

Over time, the world has experienced rapid changes driven by military, economic, and political advancements. All these changes created the need to form entities that transcend the nation-state and express an international collective will, especially global institutions.

The effectiveness of these bodies has been proportionate to the extent to which international law recognizes their juridical status—that is, entitlement to enjoy rights, assume obligations, and perform legal acts in their own name.

International legal personality specifies the capacity to acquire rights and take on obligations conferred or established under international law and to contribute to international legal norm-setting. This evolved gradually from earliest international understandings not independent, legal entities to modern organizations now centerpiece of international relations—especially since the establishment of the United Nations and its bringing about of the final move towards this direction.

*Auteur correspondant

The importance of this topic lies in its immediate relevance to the very core role of intergovernmental bodies within the contemporary world order. legal identity is what allows such organizations to sign treaties, initiate legal actions, and incur international responsibility, all of which bear a direct impact on their effectiveness and independence in relation to member countries.

The following general question follows from the above: How far and in which respects has legal personality of international organizations evolved from their early years up to the post-United Nations era, and what is it?

For the purpose of delivering an answer, the research adopts a descriptive approach by outlining the stages in the course of evolution of global institutions and the nature of their juridical status at every stage. The dichotomy is into two main sections: the first offers an analysis concerning the legal personality of intergovernmental bodies prior to the rise of the United Nations, while the second outlines the acknowledgment of their legal identity subsequent to the establishment of the UN.

1. The Legal Personality of International Organizations prior to the United Nations

Before the establishment of the United Nations, international relations had witnessed various efforts at organizing cooperation among states through various forms of international arrangements. This eventually led to the creation of the League of Nations, the first international organization in the world whose aim was to maintain international peace and security and encourage cooperation among countries. This chapter will examine the juridical status of global institutions during this time in history.

1.1 The Legal Personality of International Organizations prior to the Creation of the League of Nations

International organization was initially nothing but an idea conceived in theoretical proposals laid out by European philosophers and thinkers in earlier centuries. These were mainly aimed at ensuring security, and secondarily at promoting political, economic, and military cooperation. One of the earliest examples of such cooperative efforts was the series of European international coalitions formed to combat Islamic states, particularly through the Crusades of the 12th and 13th centuries.

Subsequently, international conferences began emerging as one of the mechanisms employed by the European states in conflict resolution. Among the most notable was the Peace of Westphalia of October 24, 1648, which ended the Thirty Years' War in Europe. This peace established fundamental principles like sovereign equality, international balance of power, and institutionalizing diplomatic representation in the form of permanent embassies instead of temporary missions. Treaties began to be based on mutual consent, and parties were meant to respect the promises they had.¹

¹ Ali Youssef Al-Shukri, *International Organizations*, 1st ed., Dar Al-Sadiq Al-Thaqafiya, Iraq, 2012, p. 14.

With Napoleon's defeat, the leaders of the European powers gathered in the Congress of Vienna on 13 March 1815 and reorganized the European order that was destroyed by Napoleon's belligerent wars. The Congress declared Napoleon to be an enemy of humanity because of his role in igniting war and emphasized that provisions for eternal peace in Europe were to be established.

Holy Alliance was formed in September 1815 as a continuation of the Congress of Vienna. Its main goal was to maintain peace in Europe, ensure the stability of its political structure, and lay the ground for a more efficient system of international relations. It wanted to create an atmosphere of unity and shared understanding in Europe. All the European countries were invited to join the alliance, and they all except Great Britain acceded to the offer.

On 20 November 1915, the System of the European Concert was created, which contributed to the pacification of the international relations in Europe and the prevention of war on the continent from the year 1815 to the onset of World War I. It served as a negotiation arrangement of the great European powers to sort out issues in the continent by peaceful means.

Subsequently, the First and Second Hague Conferences were held. In contrast to the previous conferences held following wars to settle their aftermath, the two conferences were held during times of peace. The First Hague Conference had only European states in attendance, whereas the Second Hague Conference not only had European powers but also American countries in attendance. This expansion implied that collective efforts to create an international order into existence were no longer confined within Europe, but had begun to acquire an increasingly universal nature.

These conferences resulted in a series of international conventions relating to the codification of land and naval warfare laws, as well as to enunciating rules for the peaceful settlement of international disputes through arbitration arrangements.²

International activity during this time also resulted in the creation of several international commissions in the 19th century. These commissions were an important precursor to the development of international organizations, though they were mainly intended to guarantee and control freedom of navigation on certain rivers. Some examples include the Central Commission for the Navigation of the Rhine (1814–1815) and the European Danube Commission (1856), which managed navigation on the Danube River.

In the second half of the 19th century, and as a result of scientific and technological progress, a number of international administrative unions were established to manage technical cooperation between states.³

As has been shown, the international community had already experienced a form of international organization. Hence, some jurists—such as Broustère Fedozzi in 1887—called for international juridical status for international unions. Guido Vizzinato advocated that

² Abdelsalam Saleh Arafa, *International Organization*, 2nd ed., Open University Publications, Tripoli, Libya, 1997, p. 15.

³ Ben Amer Al-Tounsi, *The Law of the Contemporary International Community*, 5th ed., University Publications Office (DPU), Algeria, 2004, p. 145.

international legal personality be extended to the International Institute of Agriculture in 1914. Similarly, some jurists have maintained that personality in such a form should be accorded to the Reparations Commission established after World War I, the Turkish Straits Commission established under the Treaty of Lausanne (1932), and the European Danube Commission, considering these as international law subjects.⁴

But it should be noted that the above conferences, unions, commissions, and alliances were not intergovernmental bodies in the contemporary sense. They lacked a permanent headquarters, their affairs were not governed by a set constitutional basis binding on member countries, they lacked permanent organs, and they were predominantly European in nature, whose aim was to serve the interests of European powers. Their confined and particular purposes exclude any claim of full international legal identity at this point⁵. It follows that it is not possible to speak of the legal personality of international organizations in the modern sense within this period.

1.2. The International Legal Personality during the Era of the League of Nations

With the devastation caused by World War I, the Allied Powers desired to establish an international body whose main objective was to maintain international peace and security; Of note here is the observation that the genesis of this international body, the League of Nations, was the result not only of initiatives on an individual basis exemplified in the past conferences, commissions, and unions, but also of initiatives on the part of governments.

Thus, the concept of international organization emerged from non-governmental movements—essentially non-governmental organizations such as the Democratic Control Union formed by British politicians and lawyers headed by the leader of the Labour Party, the Anti-War Society of the Netherlands which campaigned for a Hague Conference to secure world peace, and the Peace Promotion Association in the United States—into governmental formal activities.

These efforts of state governments included the establishment of committees by the governments, in particular, the British Committee and the French Committee, both of which emphasized that membership in the joining countries would be sovereign. An Anglo-American joint committee was, however, tasked with drafting the Covenant of the League of Nations ultimately. The Covenant, composed of a preamble and 26 articles and annexed to the Statute of the Permanent Court of International Justice, was signed on 28 April 1919⁶.

Although it was the initial universal international organization, the League of Nations lacked international juridical status at this point. The explanation for this, despite the wide range of powers in the League to resolve conflicts peacefully, to decrease weapons, and to impose international penalties, is manifold.

Most of the international legal experts at the time rejected the notion that the League possessed an independent juridical status, and instead posited that it did not actually enjoy institutional autonomy from member countries. In their view, the League was not economically

⁴ Ali Youssef Al-Shukri, Op.cit, p. 39.

⁵ Ben Amer Al-Tounsi, Op.cit, p. 145.

⁶ Gideon Boas, Public International Law: Contemporary Principles and Perspectives, Edward Elgar Publishing, Cheltenham, UK & Northampton, MA, USA, 2012, p.311.

independent, since its budget depended on member state contributions. Since legal personality entails the capacity to acquire rights and take on obligations, theorists held that the League and such entities of the day did not meet these criteria, and thus were not accorded international legal identity.

It should also be recalled that the powers granted to the League of Nations—such as disarmament and pacific settlement of disputes—were nothing more than instrumental means to an end in the achievement of its principal objective: international peace. But the League failed to accomplish this mission, for it could not prevent Japanese aggression against China, Italian aggression against Ethiopia, and experienced successive withdrawals of major powers, in addition to failing to prevent the outbreak of World War II. These failures ultimately led to the establishment of a new international organization the United Nations⁷.

2. The Recognition of International Legal Personality for International Organizations

The After World War II, the Allies , along with the internationalists who drafted the Peace Pact, sought to establish a new legal framework grounded in the renunciation of war .Accordingly, the United Nations was established in 1945 under the San Francisco Charter with explicit provisions articulating the status and competencies of the organization. These provisions were pivotal in entrenching the concept of international legal personality for the organization.

This section will examine the reasons behind recognizing intergovernmental bodies as legal persons under international law, as well as the nature of this juridical status.

2.1. Reasons for Recognizing the International Legal Personality of International Organizations

In the 1930s, the Palestinians rebelled to end the British Mandate and stop the increasing immigration of Jewish individuals, ultimately to achieve independence. The British Mandate powers reacted by putting down the revolt, which had engulfed Palestine from 1936 to 1939. In the course of this time, the British government sent the Peel Royal Commission in 1937, which offered to partition Palestine. The Palestinians did not accept the proposal to grant part of their homeland to Jewish settlers who were arriving.

The Zionist movement thus embarked on a policy of ethnic cleansing and committed massacres in an attempt to terrorize the native people to abandon their homes and flee to neighboring countries. With the intensification of violence, the United Nations General Assembly, on 14 May 1948, adopted a resolution to appoint an international mediator to implement the partition plan and seek to bring peace to Palestine. On 20 May 1948, Count Folke Bernadotte was appointed—United Nations' first international mediator.⁸

Zionist organizations did not agree to Count Bernadotte's recommendations, which included withholding the Palestinian areas under dispute from the Jews and putting an end to Jewish

⁷ Hamed Sultan and Aisha Rateb, *International Organization*, Dar Al-Nahda Al-Arabiya, Egypt, 1990, pp. 23–24.

⁸ William Slomanson, *Fundamental Perspectives On International Law*, Cengage Learning, Wadsworth, USA, 2011, p126.

immigration. Unfortunately, Bernadotte was assassinated by Jewish extremist groups due to his impartiality on 17 September 1948.

This assassination directly harmed the United Nations as an international organization, and this harm was accompanied by a right of compensation. Compensation can be demanded, however, only by an organization that has the ability to bring a legal action, and this ability is a direct consequence of possessing international juridical status.

on 3 December 1948, The General Assembly requested the Court provide an Advisory Opinion on two questions. The first question was whether the UN had the capacity to bring an international claim against a responsible state, for injury suffered by one of its agents in the performance of his duties and for damage caused to the UN, or to the victim or his estate.⁹

The ICJ on 11 April 1949 ruled that The organization shall have juridical status separate from that of countries. It shall have legal capacity in accordance with the extent and scope of its purposes and functions.

The Court also ruled that the States are not the only subjects of international law. Other entities may also have international legal personality if the nature of their functions and the circumstances of their creation so demand.¹⁰

This advisory opinion of the ICJ was a clear recognition of the international juridical status of the United Nations. Among the reasons advanced by the Court for the conferment of such recognition were the organization's ability to conclude treaties, its power of financial autonomy, its independent powers of decision-making, as well as its independent organs—all of which are integral aspects of international legal personality.¹¹

2.2. The Nature of the Legal Personality of International Organizations

The Court stated that Yet it does not become a state like other states. While global institutions are granted juridical status, they don't attain the same legal standing as sovereign countries since the founding member states haven't relinquished their sovereignty to this new international organization.

The Tribunal also emphasized that It is not a state like other states. This reflects the intrinsic difference between the personality of a state and that of an international organization. The obligations of an international organization are clearly defined in its constituent charter, and it cannot reserve for sovereign countries some acts—e.g., making war or concluding all types of treaties. Rather, it can enter into treaties only within the scope of its functional competences.¹²

⁹ Gideon Boas,, Op.cit, p. 220.

¹⁰ Digest of Judgments, Advisory Opinions and Orders of the International Court of Justice 1948–1991, no edition, United Nations Publications, 1992, p10.

¹¹ Gideon Boas, Op.cit, p. 221-222.

¹² Digest of Judgments, Op.cit, p10.

In addition, the existence of an international organization is derived from the will of states, whereas a state exists per se through its sovereign independence. This means that a state's legal identity is original, whereas that of an international organization is derived or granted.

The organization's juridical personality entitles it to enjoy rights and assume obligations up to the point necessary for the fulfillment of its tasks. That is, its international personality is limited and functional, being bound to the stated purposes and activities in its charter either explicitly or implicitly. Contrarily, a state enjoys full juridical personality, qualifying it to operate in all dimensions of international affairs in line with the principles of international law.¹³

Conclusion:

At the end of this study, the following conclusions were reached:

- In the early days of international organization—marked by initial attempts to establish a system of global governance—there was no juridical status of intergovernmental bodies since there were still no international organizations established.
- During the second era, which witnessed the emergence of the first international organization, the League of Nations, international legal scholarship rejected the international legal personality of the League.
- International organizational legal identity was formally supported by the advisory opinion of the International Court of Justice in the 1949 case concerning Reparation for Injuries Suffered in the Service of the United Nations.
- The legal personality of the international organization is not the same as that of the state. It is limited and functional, confined to the degree necessary to achieve the object and functions of the organization as established in its constituent charter.
- As a result of being held to have juridical status, legal actions undertaken by the organization are attributed to the organization itself and not its member countries. The organization is also liable for unlawful acts attributable to it, either directly by the organization or by an official of the organization.
- International legal personality also grants the organization the power to conclude treaties, to appear before international courts, and to enjoy diplomatic protection for the exercise of its functions.

In light of the findings reached in this study, the following recommendations are proposed:

- Promoting further definition of the scope of legal identity conferred on global institutions, particularly with a view to their evolving roles in international governance, peacekeeping, and humanitarian intervention.

¹³ Omar Sadouk, Lectures on Contemporary International Organization, no edition, University Publications Office (DPU), Algeria, 1996, p. 24.

- Promoting the development of international jurisprudence by way of advisory opinions and case law to address contemporary challenges facing intergovernmental bodies, especially in the areas of accountability and legal responsibility.

Referrals

▪ **Books:**

1- Abdelsalam Saleh Arafa, International Organization, 2nd ed., Open University Publications, Tripoli, Libya, 1997.

2- Ali Youssef Al-Shukri, International Organizations, 1st ed., Dar Al-Sadiq Al-Thaqafiya, Iraq, 2012.

3- Ben Amer Al-Tounsi, The Law of the Contemporary International Community, 5th ed., University Publications Office (DPU), Algeria, 2004.

4- Digest of Judgments, Advisory Opinions and Orders of the International Court of Justice 1948-1991, no edition, United Nations Publications, 1992.

5- Gideon Boas, Public International Law: Contemporary Principles and Perspectives, Edward Elgar Publishing, Cheltenham, UK & Northampton, MA, USA, 2012.

6- Hamed Sultan and Aisha Rateb, International Organization, Dar Al-Nahda Al-Arabiya, Egypt, 1990.

7- Omar Sadouk, Lectures on Contemporary International Organization, no edition, University Publications Office (DPU), Algeria, 1996.

8- William Slomanson, Fundamental Perspectives On International Law, Cengage Learning, Wadsworth, USA, 2011.