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Definition of International Law

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International law was originally developed to regulate the conduct of sovereign states in their interactions with one another. Over the years, its scope has expanded to include a wider range of subjects, such as individuals, international organizations, and non-state actors.

This article explores the evolution of international law from the classical state-centric approach to the modern inclusive framework. It examines key definitions proposed by leading jurists and highlights how international law has adapted to meet the needs of an increasingly interconnected and complex global system.

Introduction

The concept of international law has undergone significant transformation over time. The term was coined by Jeremy Bentham, a British philosopher, who defined it as a collection of rules governing relations between states. At its core, international law refers to the legal framework that regulates the conduct of states and, increasingly, other international actors. However, the scope and nature of this law have evolved, giving rise to two prominent interpretative approaches:

1. The classical approach
2. The modern approach.

Classical Approach to International Law

Under the classical approach, international law is narrowly construed as the law only applicable between states. This traditional perspective asserts that the state is the sole subject of international law, and the law merely governs their rights and duties in relation to one another.

1. Oppenheim’s Definition

One of the leading jurists of the classical school, Lassa Oppenheim, defined international law in his 1905 book International Law as:

"The body of customary rules which are considered legally binding by states in their intercourse with each other."

This definition underscores three key points:

- States are the only subjects of international law.
- Custom and treaties are the exclusive sources of law.
- The use of the term "body" implies a static and unchanging nature.

Shortcomings of Oppenheim's Definition:

- Exclusion of Non-State Actors: In today's international legal order, entities like international organizations and individuals also hold rights and duties.
- Limited Sources: Modern international law recognizes general principles, judicial decisions, and scholarly writings as additional sources.
- Static Perspective: The word "body" suggests rigidity, whereas international law is dynamic and progressive, constantly evolving to meet new global challenges.

Brierly's Definition

In his book The Law of Nations, James Leslie Brierly expanded on the classical concept, defining international law as:

"The body of rules and principles of action which are binding upon civilized states in their relations with each other."

While this definition is broader in expression, it remains confined to state-centric interactions. Brierly failed to outline the sources of international law, a crucial component for a complete understanding. Despite its broader tone, his approach still does not encompass non-state actors or evolving sources of law.

Modern Approach to International Law

The modern approach acknowledges that the scope of international law extends far beyond interactions between sovereign states. Today, International Law concerns the rights and duties of individuals, international organizations, and non-state entities. This evolution reflects the increasingly interconnected and complex global order.

Oppenheim's Revised Definition (1992)

In the 9th edition of International Law (published posthumously in 1992), Oppenheim's definition was revised to reflect this broader scope:

"A body of rules which are legally binding upon states in their intercourse with each other, but states are not the only subject matter of international law; international organizations and the rights and duties of individuals are also its subject matter."

This revised definition marks a significant shift from the classical view and recognizes the multiplicity of actors in the international legal framework.

J.G. Starke's Definition

J.G. Starke further elaborated this modern view, defining international law as:

"A body of law which is composed for its greater part of the principles and rules of conduct which states feel themselves bound to observe, and therefore, do commonly observe in their relations with each other and which includes also:

(a) the rules of law relating to the functioning of international institutions or organizations, their relations with each other, and their relations with states and individuals;

(b) certain rules of law relating to individuals and non-state entities so far as the rights or duties of such individuals and non-state entities are the concern of the international community."

Starke's definition is expansive and forward-looking, recognizing the plurality of actors and multifaceted nature of international law.

Shortcomings:

While comprehensive, it reflects the view that current subjects are fixed (states, individuals, organizations), whereas the list may expand in the future, making the definition somewhat time-bound.

Georg Schwarzenberger's Definition

Schwarzenberger presented a modern and realistic interpretation of international law:

"International law is the body of legal rules which apply between sovereign states and such other entities as have been granted international personality."

This definition is notable for:

- Including entities with international personality, such as the United Nations or the International Criminal Court.
- Recognizing the political and social contexts in which international law operates.

Shortcoming:

The use of the term "body" again suggests a fixed nature, whereas international law is fluid and responsive to global changes.

Thus, international law today is not merely a set of rules between states; it is a living body of principles that governs the behavior of a diverse set of international actors in a constantly evolving global landscape.

Conclusion

International law has moved far beyond its original conception as a rigid framework governing relations between states. Today, it is a dynamic and adaptive legal system that addresses a vast range of global issues and actors. By acknowledging the rights and responsibilities of individuals, organizations, and emerging entities, modern international law reflects the complexity of contemporary global governance. Its definitions and frameworks must continue to evolve to remain relevant in an ever-changing international landscape.