The concept of international law

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Abstract- Establishment of the United Nations, as a system that determines the direction of human rights and the adoption of the Universal Human Rights of the International Pact on Civil and Political Rights and the International Pact on Economic, Social and Cultural Rights, have unedvocally established the path of current civilization , putting the question of the right of man among the priority issues of the Global Society.

Index Terms- international law,economic,civil,global,Libya

I. INTRODUCTION

The role of international law and its contribution to the affirmation and implementation of Libya's economic development will be considered here, ie the effects of the application of international law in Libya's economic development activities and its contribution to the improvement and protection of the security system will be considered in a comprehensive manner.

Keywords: international law,

Legal rules of international law

International law, in a formal sense is a system of legal rules governing the legal status and the related subjects of international law and the legal position of other individuals and relationships of international interest. On the other hand, the formal importance of the term of international law implies:

a) International law is a system of legal rules. The qualification of international law as a set or system of legal rules is characterized by almost all definitions of international public law.
b) As a system of legal rules, the International Public Law regulates legal position and relations, on the one hand of international law entities, on the other hand, other individuals from international interest. Mescum, is characteristic of the binding of the notion of international law for entities. Because, in addition to relations between its entities, international law regulates legal position and other individuals that cannot be characterized as subjects of international law.

In addition to the mentioned formal term, there is a material notion of international public law. One of the Osnwon's objections definition of international law is that it does not lead almost anything about what is the essence of international law.

"In the latest theories of social development, human rights are also involved in the basic values of modern civilization and they become the subject of general concern and international responsibility. Their protection is represented by the universal interest (universal interest) and can no longer border the boundaries of state sovereignty. "[1]

However, material definitions state the essence of international law. Understanding in this context, the International Public Law is an objective and autonomous norm or imperative of the international community. As elements of the material notion of international public law, it can be stated:

1. International law is the right of the international community. The main goal or function of international law is the creation of regulated legal relations in the international community. Regardless of the different understandings of the international community, it is undisputed that it is a specific community different from the state as a percentage of internal or national law.
2. International law is an autonomous norm or imperative. The qualification of international law as an autonomous norm or imperative goes to direct attention to a special technique for creating legal rules of international law, on the one hand, and to define the relationship between international law towards that law, on the other hand. This qualification setting withdraws the essential difference between internal and international law. Unlike internal rights characterized by heteronomous nature, given that authorized state bodies in the form of unilateral legal acts (constitutions, laws and bylaws) and imposes it to the subjects of law, the autonomous nature of international law derives from the fact that they create themselves The subjects of international law, provides, in principle, agreed, consensual nature. That is why such the nature of international law expresses the most through a system of formal sources. The main formal sources of international public law are contract and custom, as legal acts based on the will, explicit or tacit.
3. International law, viewed as consensual right, not deprived of the elements of imposing, as the elements of imposition arise from the very qualification of the will of

[1] Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Ilustrations*, sec. ed., Basic Book, New York, 1992, p. 107.

the international community as the basis of the obligatory of international law. The will of the will is a qualitative feature of the predominant part of international public law, as a general rule, while in exceptional cases where it requires general or universal interest, the legal rule of international law may be imposed by some state or states. Imposing has two basic forms of manifestation. First, it is reflected in the process of creating and validity of legal rules, while long Olgestions in the procedure of applying legal rules.

4. International law is an objective norm or imperative. When we say that one of the elements is the formal - legal concept of international law, that international law is an objective norm or imperative, it means that international law is an objective order, order for which it is characteristic above the will of individual states. The basis of the obligatory or universal international law is the will of the entire international community, and the consent of the state is taken individually, is only an instrumental form of constituting the will of the international community. Therefore, the will of the international community is the appropriate expression of general interest, which is presented through the consent of the predominant or prevalent majority of the Member of the international community. The two basic features of the term "predominant or prevailing majority":
    - Quantitative (arithmetic) - which is reduced to a large majority, ie. The standard not expressed in a precise arithmetic formula is already constituted from case to case,
    - Qualitative (value) - It is not enough to work only on the arithmetic majority, but the majority must be representative, ie. All major political and legal systems and civilizations of the world must be represented.

The objective character of international law has also been confirmed in the jurisprudence of international courts. Certificate of an objective character of international law Nalayimo and in the relationship between the internal lawmaker towards international law.

Legal rules of international law are: universal (binding on all countries equally), regional (binding on one region) and particular (rules of entry).

One of the divisions of international law, as a broader term, is internationally public and internationally private law. The international public establishes the relations between countries, between countries and international organizations, within and between international organizations, as supernity carriers. On the other hand, international privately regulates relations between countries on the occasion of the relationship between individuals. However, this division of international law does not have many supporters nowadays.

Regarding the relationship between international law and internal law right, this donation is established through two doctrines, as follows:

Dualistic theory - It starts from the assumption that international law and internal law function as two separate and independent legal systems. In this way, international law regulates relations between countries, while internal state law prescribes the framework of legal and natural persons within the territory of the state. In order for this concept to be valid, the sovereignty of the state is necessary, ie. that the authorities and courts do not recognize the sovereign power above its independent and national sovereignty. Only those principles of international law apply for which it is ordered through the domestic legal norm, which is binding on them. This means that the legal rules of international law, the bodies within the countries apply only if they are an integral part of the legislation and represent its imperative.

Monistic theory - starts from the assumption that the primacy is given to international law in relation to the internal right. The formation of this theory connects the DSA by creating the so-called. The societies of the people, as the first universal international organization, after the first Stathic War.

The internal law of any state has been delegated international law, because the international community has a power that is not dependent on people living on a particular territory. In practice, this means that obligations under the international agreement, perform after the implemented implementation of the amior agreement into the internal legal system of the state.

Sources of international law

Sources of international law are divided into: material and formal sources.

Material sources are social relations that characterize the conflict of political, state, economic, geopolitical or other interests, which are important for the functioning and survival of the international community, and are necessary to regulate and direct the legal norms of international character. Formal sources of international public law are legal acts containing general norms that regulate societal relations in the international community.

In accordance with the provisions of Article 38 of the Statute of the Tribunal of Justice, as the main sources of international law are determined:

• International contracts,
• International custom rules and
• General legal principles.

In auxiliary formal sources, include court decisions and teachings of the most famous experts for international law. The courts first apply international agreements if they exist and can be implemented, if the contract is not available, the common legal rules are applied, and at the end of the general legal principle. Binding decisions of international organizations also represent a source of international law. It is important to say that sources of international law are an expression of consent will two or more entities of international law.

International contracts

During the contract, the transparent manner promotes and regulates international cooperation that, in general, unfolds on the principles that apply to domestic law. The international agreement represents a legal act, a product of consent of two or more entities of international law, expressed through the competent authorities in order to create reciprocal rights and obligations.

So the notion of the international agreement consists of the following elements:

1. The agreement - the explicit consent of the parties is the essence of the contract. Consent is manifested by an explicit consent of the parties to be related to the contract. Consent must be clearly expressed. The contract is created by new rules of international law, they change or abolish existing or changes the form of existence of legal rules. The subject of the contract is the future conduct of the Contracting.
2. The form - can be concluded in writing, oral and even in tacit form.
3. Subjects - States and international organizations.
4. Organization of international law (must not be contrary to the imperative norms of international law, because the contract in international law produced legal consequences, must be in accordance with IUS Cogens norms of international law, and the case is legally permissible.

A prerequisite for the use of the contract is a freely expressed consent of the international legal entity. On the other hand, the disadvantages of will, in the cause of nullity of the contract, may be executive over the authorized representative of the state or coercion made over the state contracting, as well as misconceptions, fraud and corruption.

Types of international treaties - given the number of contracting parties in the conclusion procedure, we distinguish: two-sided (bilateral) and multilateral (multilateral) contracts.

Bilateral agreements are the result of the consent of the will of two Contracting Parties, while multilateral agreements as participants have three or more Contracting Parties. International contracts are concluded between the exactly established number of the Contracting Parties, which they also cause. Depending on the fact whether the original parties allowed the accession of the new, subsequent contracting parties to the existing contract we distinguish:

- open (where access permitted) and
- closed contracts (where the right of accessing parties not participated in its adoption is prohibited).

There are in practice and the so-called. Semi-open contracts where the agreement of the new Party Parties are required to consent the original contracting parties. From the aspect of territorial validity of the contract, I differ generally (valid for the entire international organization) and regional (valid for the countries of one region). According to the content of the subject International contracts, it may be: politically, economically, amdinistative, gađevisnko-legal, technical, contract procedural character, contracts by business technical cooperation and others.

The process of concluding a contract can be: a simple procedure or a complex procedure. The simple procedure implies the exchange of documents of the contracting parties, which by the exchange themselves give their consent to the will to conclude the contract. On the other hand, the complex procedure includes two phases: drafting the text of the contract, which is achieved through negotiation, adoption of the text and verification of the text, and the second phase, giving consent for binding by the contract. The second phase includes that the parties participating in the conclusion of the agreement determine the manner of consent to be bound by the agreement, through: signing, ratification, acceptance, approval, accession, etc. The international agreement enters into force in the manner and at the time defined by its provisions by agreement between the states that participated in the negotiations.

International customary law

A custom is a social norm based on long-term repetition that has become a habit and has acquired the character of a social obligation. International customary rules arise in the practice of states, international organizations and other factors of international law, when they fully acquire the awareness of legal obligation, with the aim of legally regulating certain international relations. The notion of international customary rules contains both an objective (or material) and a subjective (or psychic substrate). The objective element is contained in general practice, and the subjective in the psychological understanding of the obligations of international subjects, ie. awareness of legal obligation.

The practice consists of acts of conduct (state bodies or bodies of international organizations). It should be general, ie a larger number of states should participate in it. Practice should be: constant, permanent, frequent and continuous. It must be uniform, ie. in the same situation, states should behave in the same way. International customs must have uniformity, continuity and frequency of application. While the uniformity and continuity of the application of the practice of international customs are indisputable for their application, the frequency of repetition of customs is directly conditioned by the frequency of international relations from which they arise. However, not every established and continuous behavior of international entities is an international customary rule. In order for general practice to become an international custom, in addition to material preconditions, there is also an awareness of the legal obligation to behave appropriately.

Legal awareness is a factor that distinguishes international customary law from custom, so custom grows into an international customary rule of law when states behave in a certain way not because they are so used to it, but because they consider such behavior to be legally binding. Termination or extinguishment of an international rule of law is the opposite of its emergence. This means that the disappearance of one of the two elements necessary for the appearance of an ordinary rule extinguishes this rule. Also, with the disappearance of the legal belief in the binding nature of the rule, the legal rule becomes a custom.

In this case, we distinguish two types of spatial validity of international customary law, namely: general customary law (valid in all subjects of international law) and particular customary law (regional - related to one region; local - applied in relations between states).

General legal principles

General legal principles - the status they have was given to them by the Statute of the International Court of Law, which resorts to the application of general legal principles, only when there are no international agreements or customary rules. General social and legal values and principles have been incorporated into general legal principles, as contained in all legal systems in the

world, and not bis bis idem - not twice about the same. The principles of international law are the principle of equality of states, the principle of peaceful settlement of disputes, etc.

The court will not apply a general legal principle if contractual or customary law can be applied in the proceedings (a special law delegates general law). This means that a party who invokes a general principle of law and asks the court to apply it must first prove that the rule applies as a general rule in a number of States belonging to different legal systems. In summary, general legal principles represent the most general rules accepted in the internal law of all states within the international community.

REFERENCES

[1] Allen, F., Gale, D., (2001) Comparing Financial Systems, The MIT Press, Cambridge, Massachusetts, London, England

[2] Alsnusy O. Alfadel, Kertahadi M. Com, Imam Saudi, „The Effort of Economic Growth through Foreign Direct Investment in Libya“, Journal of Business and Management, 2013, 9.2.2021. godine

[3] Altiparmakov, N., (2010) Poreski sistem u funkciji zapošljavanja i ekonomskog rasta: nacrt za Srbiju, Beograd

[4] Berry, A., (2007), The Importance of SMEs in the Economy, ITD Global Conference on Taxation of Small and Medium Enterprise

[5] Bevan, A., Estrin, S. (2000) The Determinants of Foreign Direct Investment in Transition Economies, Wiliam Davidson Institute Working Paper 342, London Business School, London

[6] Centre for Entrepreneurship, SMEs and Local Development, OECD, The Impact of the Global Crisis on SME and Entrepreneurship, Financing and Policy Responses, 2009, str. 6.

[7] Chenery, H. B., (1960), Patterns of industrial growth, The American Economic Review, 50(4), pp. 624–654.

[8] Christensen, C. M. (1997) The Innovator's Dillema, Boston, MA, Harvard Business School Press;

[9] Entoni Gidens, Obrazovanje i industrijalizacija; u: Sociologija, Beograd: Ekonomski fakultet, 2005, str. 496 – 497

[10] Gabe, T.M. and K.P. Bell, (2004) Trade offs between Local Taxes and Government Spending as Determinants of Business Location, Journal of Regional Science, Vol. 44.

[11] IMD Lozana, World Competitiveness Yearbook

[12] IMF, Balance of Payments and International Investments Position Manual, 6th edition, International Monetary Fund, Washington D.C., 2009, p. 101.

[13] Mercinger, J., (2003) Does Foreign Investment Always Enhance Economic Growth?, Kyklos, International Review for Social Sciences, pp. 534-547

[14] Michael Walzer, Just and Unjust Wars: A Moral Argument with Historical Ilustrations, sec. ed., Basic Book, New York, 1992, p. 107 Rostow, W.W., (1960), The stages of economic growth: A non-communist manifesto, Cambridge, Cambridge University Press

[15] Towards a Thematic Strategy on the Sustainable Use of Natural Resources“ - EC COM [2003] 572

[16] UNCTAD, World Investment Report 2007, Geneva, 2007, p. 245.

[17] https://en.wikipedia.org/wiki/World_population

[18] http://www.tuzilastvorz.org.rs/upload/Regulation/Document__sr/2016-05/povelja_un_lat.pdf

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