Studying the Principle of Cooperation as a Fundamental Element of International Law in International Relations

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Abstract

International Law is a bunch of decides that are by and large acknowledged in the connection among states and countries. It is a structure for leading steady and coordinated global relations. Worldwide regulation varies from state overall sets of laws in that it is basically material to states and not to private residents. Public regulations might become global regulation when arrangements delegate public purview to worldwide courts like the European Court of Common liberties or the Worldwide Official courtroom. Arrangements, for example, the Geneva Show might regard public regulations to arrive at important areas. General standards legitimate of Global Regulation comprise its lawful establishment. Their limiting power is something similar and every one of them are similarly significant for the keeping up with of Worldwide lawful request. By and by one of them, to be specific the guideline of participation, assumes an exceptional position in the arrangement of Global Regulation, being a basic putting down the vector for the Worldwide Regulation turn of events and assigning its expected quality from the perspective of the UN Sanction. Therefore its legitimate items needs in clear comprehension. However, it does not stand to reality. The legal acts of International Law say a good deal about the areas and mention the modality of cooperation, but give neither particular idea of the rights and duties nor describe the behavior meeting the requirements of cooperation. The attempt to contribute in filling this gap has been undertaken by the following investigation. For this purpose, the idea of cooperation as joint activity of states is a starting point for the description of its legal regulation. The international legal acts bring us to understanding the objectives of cooperation, which differ according to the area of states' interaction. Special attention is given to economic area, where cooperation makes up the essence of the interstate relations. Current practice of these relations brings to conclusion about the right the states have according to the principle of cooperation. It is the right for a choice of partners for joint activity. As for the obligation, it is to subordinate this activity to the rules of International Law. And cooperation as general imperative relates to erga omnes areas.

Keywords: International Law, cooperation, principle of cooperation, economic cooperation, legal contents.

Introduction

The postulate of international cooperation as the basic principle of international law is now firmly established in the Russian scientific doctrine, where in the last century it was considered in the context of peaceful coexistence although the distinction between cooperation and peaceful coexistence was still made [1, p.48-53]. In foreign academic literature on international law, the principle of cooperation is not always even mentioned, and the doctrine does not recognize its coherence [2, p.11], although the question of understanding, what constitutes cooperation, is also raised in Western scientific publications. At the same time, attention is drawn to national policy as a significant factor in the formation of cooperation relations, the influence of which in this aspect is insufficiently studied [3]. The lack of definiteness, of both the concept of cooperation, and the legal content of the principle of cooperation in international law is also noted in the domestic international-legal literature, and therefore its vulnerability is recognized [4, p. 23].

Investigating the position of international law in theories of international relations is very important. And he divided these theories into four approaches. The first approach is the theory of idealism. According to this theory, ability and coercion rarely lead to the progress and development of international law. In the late 1930s,

with fascist aggression and the ineffectiveness of the theory of legal idealism, the theory of realism raised important criticisms against the theory of idealism in terms of epistemology, mental and normative.
International law has a rich history that goes back to ancient times. Modern international law is related to the evolution of the territorial state system that emerged in Western Europe in the 16th and 17th centuries. In terms of its close relationship with the western state system, international law is considered a product and phenomenon of western values and traditions. Therefore, some of its rules have been challenged by the non-western world. Of course, it should be emphasized that both groups of these countries basically accept and confirm the traditional system of international law. Therefore, one of the main plans of the contemporary international system is to create and adapt legal rules that the world community can follow. The logic of holding international conferences, such as conferences on diplomatic law, consular law, treaty law, and law of the seas, is the same. Although such activities mainly validate existing rules, the creation of new rules and the modification of past customary practices are also very common. For example, the expansion of the territorial sea, the creation of an exclusive economic zone and the concept of "common heritage of humanity" are such examples. Of course, the latter concept has been exposed to contradictory interpretations by many countries.

International Law

International law is a branch of the science of law and it means a set of legal rules that are considered binding for countries and other international people in their mutual relations and is basically based on treaties, custom and also the general principles of law recognized by civilized nations. International law is divided into global international law, public international law and private international law.
According to the theory of realism, international law is a reflection of the interests of powerful states and does not play a significant role in understanding the important behaviors of states. The third approach is the theory of liberalism, which emphasizes institutionalism and rationalism, and believes that rights are the burden of states' behavior, rules, and groups. and effective people. The fourth approach is the theory of creationism, which believes that identities and interests cannot be separated from social groups and that international law reflects and reinforces the interests and identities of governments and groups. The hypothesis of the article is as follows: international law has different dignity and status in different theories of international relations. In some theories, international law is considered marginal, secondary and ineffective in solving global issues, and in some others, international law plays an important role in cooperation between international actors, ensuring global peace and security.
In its most fundamental division, the science of law is divided into two main branches of public law and private law, and based on the relationship of the legal rule with one or more "state-states" into two branches of internal or national law and international law. Although in practice, almost all jurists have accepted this fundamental division, some of them have defined and mentioned the types of international law in the framework of the discussion of sub-branches of public law and private law. In domestic law, whether it is a branch of public law or private law, legal relations and the rules governing them are considered within the framework of a certain government and a specific national sovereignty, so that all the effective factors in the formation and implementation of the legal rule are domestic and national; That is, the rule maker is the legislator of the country, the parties to the legal relationship are citizens of the same state, and the legal relationship is also realized within the country, but some legal relationships are not included in the framework of a certain state, but at least one foreign (non-national) element plays a role in it. For example, instead of the will of one government, the legal rule may be the result of the agreement of the will of two or more independent governments (bilateral or multilateral treaties) or the joint will of several governments (mandatory regulations of international organizations), or the parties to the legal relationship are nationals of two different countries. or an external agent is effective in implementing the legal relationship

Methods

General methods of scientific studies constitute the methodological basis of the research under way. Specially, the method of system-structural analysis is being used to show the principle of cooperation in the system of general principles of International Law. Private scientific methods, such as formal-juridical method is supposed to study the provisions of the International Law acts relating to the principle of cooperation. The method of legal comparison is supposed to distinguish generally recognized and particular characteristics of cooperation in different legal and literary sources as well as methods of induction, deduction and synthesis are to work out the understanding of the legal contents of the principle under discussion.

Results and Discussion

Summarizing the definitions of the concept of "cooperation", contained in explanatory dictionaries, A.V. Krysanov suggests considering cooperation as a joint activity of interested subjects, aimed at achieving a certain result, highlighting two meanings of the concept of "international cooperation" - this is the joint activity of

subjects of international law and the principle of international law [5]. It should be noted, that the above definition of cooperation characterizes the subject of relations between subjects of international law, but does not contain references to the rights and obligations of these subjects, which constitute the legal content of any principle of international law.

In foreign publications, along with joint activities and a common goal, the definition of cooperation indicates solidarity, as well as the division of burden and responsibility between states [6], which give an idea of the responsibilities of cooperating entities, but only in the first approximation.

The substance of collaboration as a joint action is adequately completely reflected in global legitimate demonstrations. Along these lines, in p. 3 A.1 of the UN Contract manages worldwide collaboration in tackling issues of a financial, social, social and compassionate nature; in p. 1 A. 13 - On participation in the political field (thing a) and in the financial, social, social, instructive, wellbeing and advancement of common liberties and central opportunities (thing b); at last, section IX is named "Global monetary and social collaboration" [7]. The UN Sanction doesn't expressly specify extensive participation, yet this thought can be followed through a few segments of this report.

In all cases, collaboration is alluded to as an objective of the UN; just Article 56 lays out the commitment of all Individuals from the Association to make joint and free moves in participation with the Association to accomplish the objectives, determined in Article 55. These objectives are: working on the way of life, full work of the populace, making conditions for monetary and social advancement and improvement; tackling worldwide issues in the field of financial, social, wellbeing and comparative issues; global participation in the field of culture and schooling; widespread regard for and recognition of basic liberties and key opportunities.

In the 1970 Announcement on Standards of Worldwide Regulation the guideline viable is formed as "the obligation of States to help out one another as per the UN Contract" [8, p.151-155]. It likewise determines, that "States have an obligation to help out one another, paying little mind to contrasts in their political, financial and social frameworks, in various areas of global relations fully intent on keeping up with worldwide harmony and security and to advance worldwide monetary steadiness and progress, the Overall government assistance of Countries and global collaboration, liberated from separation, which depends on such contrasts. For this reason:

(a) States will help out different States in the upkeep of worldwide harmony and security;

(b) States will participate to advance all inclusive regard for and recognition of common liberties and major opportunities for all and to dispose of all types of racial segregation and all types of strict prejudice;

(c) States will lead their worldwide relations in the financial, social, social, specialized and business fields as per the standards of sovereign uniformity and non-impedance;

(d) States - Individuals from the Unified Countries are obliged, in collaboration with the Assembled Countries, to go to joint and individual lengths, accommodated in the applicable arrangements of the Contract.

Summary

States participate in the monetary, social and social fields, as well as in the areas of science and innovation, and add to the world's advancement in culture and schooling. States ought to cooperate to advance financial development all over the planet, particularly in emerging nations."

Subsequently, the Announcement gives a significantly more extensive perspective on collaboration as a joint movement than the UN Contract, defining out the objectives, regions and topic of cooperation between States. Likewise, participation is alluded to as a commitment, however the substance of the commitment is as yet not uncovered.

In the Last venture of the CSCE 1975, the rule of participation is likewise recorded as the commitment of the members of the Gathering "to foster collaboration with one another, similarly as with all States, in all areas as per the reasons and standards of the UN Contract" [9]. This archive likewise depicts the connections that relate to the idea of participation. Consequently, the states "will endeavor to advance common comprehension and trust, cordial and great friendly relations among themselves, global harmony, security and equity by fostering their participation as equivalents. They will, in like manner, endeavor, by fostering their collaboration, to upgrade the prosperity of people groups and to advance their desires, making use, bury alia, of the advantages, emerging from their developing shared commonality and their advancement and accomplishments in the financial, logical, specialized, social, social and helpful fields. They will do whatever it may take to advance a climate, favorable, to making these advantages open to all; they will consider the interests of all in diminishing contrasts in degrees of monetary turn of events and, specifically, the interests of non-industrial nations all over the planet" [9]. Be that as it may, as in the past cases, we are discussing the objectives of collaboration and exercises, pointed toward accomplishing these objectives.

The Contract of Monetary Freedoms and Commitments of States dated December 12, 1974 , demonstrates the requirement for participation as in the singular interests of States (Art.7) [10], and for the reasons for financial and social advancement of all nations of the world (Craftsmanship. 8, 9).The multi-faceted portrayal of collaboration as a joint movement filled in as the reason for the end that there is a commitment of "all states to help out one another in every aspect of global relations" [11, p. 201]. Nonetheless, it appears to be that there are

insufficient contentions for this end. Also, the worldwide legitimate demonstrations considered don't address such inquiries, as whether the commitment to collaborate accommodates compulsion to participate in the feeling of laying out relations and obligation regarding declining to lay out relations, whether this standard applies just to relations between States or similarly influences different subjects of global regulation.
The UN Charter refers to cooperation in solving international problems only in a few specific areas, and this implies the existence of certain relations in these areas, or the intention to establish them in connection with the intersection of relevant interests. And if one state refuses to establish relations with another state, in particular trade with a State, whose export of goods poses a threat to the economy of the former; can we then speak of a violation of the principle of cooperation? How does the duty to cooperate with everyone relate to the sovereign right of the state to freely express its will and implement its own foreign policy and foreign economic strategy?

Conclusions

Let's turn to the sphere of economic relations. In the context of globalization, characterized by the ever-increasing interdependence of States, economic cooperation is becoming an integral part of interaction in political matters. There is a growing awareness, that "success in solving economic problems contributes to strengthening national security" [12, p. 10] and this increases the importance of international economic cooperation. The principle of economic cooperation is the basis of international economic law [13]. Its existence is confirmed by a number of sources of international law. First, these are international-legal acts that establish the general principle of cooperation. Among the problems, listed in the p. 3 A.1 of the UN Charter the solution of which requires the cooperation of all States, mention is first and foremost made of economic problems. A separate chapter in the UN Charter - Chapter IX - is devoted to economic and social cooperation, and its content was developed in the next Chapter X, which establishes the UN body for economic cooperation - ECOSOC. In the 1970 Declaration the issue of economic cooperation is also in the first place. The CSCE Final Act and further OSCE documents, in particular the Charter for European Security dated November 18, 1999 highlights economic cooperation among the areas of cooperation. Secondly, these are special documents on economic issues: Declaration on Principles of the New International Economic Order and Charter of Economic Rights and Duties of States 1974, Seoul Declaration 1985.
Special emphasis on cooperation in the economic sphere, which can be traced in international-legal documents, indicates that it is one of the most important areas of international cooperation [14]. Increased attention to the issues of economic cooperation is not accidental: economic relations in the modern period penetrate almost all areas of international-legal regulation. So, to ensure international security plays an important role in the streamlining of the international arms trade, nuclear materials, technologies for the production of arms and etc.; space research, the international air services, the development and use of marine resources, the resources of the Antarctic, the implementation of the economic rights of the individual without a resolution of economic issues, and a list of fields, where these issues arise and require resolution through international economic law could continue. In other words, the concept of cooperation is inextricably linked with economic relations, although it is not limited to this sphere [15].
At the same time, the realities of international economic relations allow to form a certain idea of the legal content of the principle of cooperation. As can be seen from this practice, States selectively approach the choice of partners for establishing appropriate relations based on national interests. This choice is based on the sovereign right of the State – the right to free expression of will, which can be considered as one of the components of the legal content of the principle of cooperation. And despite the fact, that in a globalizing world, the understanding, that sovereignty is not absolute, is becoming more and more confirmed, the will of the state is not diminished. Its main manifestation in this new context is the freedom of rational choice. In addition, extraordinary circumstances may serve as a prerequisite for cooperation, forcing joint measures to be taken. However, in all cases, the concept of cooperation (joint activity, solidarity, sharing of burden and responsibility) remains unchanged, and the second component of the principle of cooperation is the implementation of relations in accordance with the principles and norms of international law. As for the duty to cooperate as a general imperative, in accordance with the UN Charter, it extends to areas, that constitute vital interests of States, relations, regulated by erga omnes norms.

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Bibliograph

[1] I. I. Lukashuk, Relations of peaceful coexistence and international law (Problems of international-legal regulation). Kiev, 1974; N. A. Ushakov, The principle of peaceful coexistence – the constitutional basis of relations between the USSR and the states of the capitalist system. Issues of International Law, Moscow, 1976.P.3-14; N.A. Ushakov, Strengthening the legal framework for peaceful coexistence of States// The Soviet State and the progressive development of international Law. Chapter 1, Moscow,

1977 .P.5-20; M. I. Lazarev, Peaceful coexistence and international law at the present stage// Peaceful coexistence and socio-political development. - M., 1977. – P.48-53.
[2] A. S. Ispolinov, Jus cogens norms in decisions of international courts//Russian Law Journal-. 2014. - № 6. - A.11
[3] International Theories of Cooperation Among Nations: Strengths and Weaknesses Published online by Cambridge University Press: 13 June 2011//https://www.cambridge.org/core/journals/world-politics/article/abs/international-theories-of-cooperation-among-nations-strengths-and-weaknesses/F6C92B44FE37760AA063F1486A68CD84
[4] I. I. Lukashuk, International law. The general part. Moscow: BEK PUBL., 1996. A. 286; A.V. Krysanov, International cooperation: general theoretical and legal dimension. Bulletin of the Ural Institute of Management, Economics and Law. - 2018. - No. 4 – A. 23.
[5] A.V. Krysanov, International cooperation: a general theoretical and legal dimension https://cyberleninka.ru/article/n/mezhdunarodnoe-sotrudnichestvo-obscheteoreticheskoe-i-pravovoe-izmerenie/viewer
[6] International cooperation and responsibility-sharing to protect refugees: what, why and how? Published online by Cambridge University Press: 22 August 2017//
[7] https://www.cambridge.org/core/journals/international-and-comparative-law-quarterly/article/international-cooperation-and-responsibilitysharing-to-protect-refugees-what-why-and-how/83C23155258B2F45634F38D493301D5C
[8] Charter of the United Nations. Adopted on June 26, 1945. // Current international law: documents: in 2 volumes. / Comp. by Yu. M. Kolosov, E. S. Krivchikova. - Moscow: International Relations, 2002.
[9] Declaration on Principles of International Law, concerning Friendly Relations and Cooperation among States in Accordance with the Charter of the United Nations: adopted on October 24, 1970. United Nations General Assembly resolution A/RES/2625 (XXY) //Resolutions, adopted by the General Assembly at 25th session, 15 September-17 December 1970 The General Assembly. Official records. 25th session. - New-York: United Nations, 1971. - P.151-155.
[10] Final Act of the Conference on Security and Cooperation in Europe (Signed in Helsinki on 01.08.1975) //Current international law. Moscow, 2007.
[11] [10] Charter of Economic Rights and Obligations of States. Adopted by the UN General Assembly on December 12, 1974. A/RES/3235(XXIX)//The General Assembly, Official records. 29th session. New-York: United Nations, 1975.
[12] Course of international law. v. 2. Basic principles of international law. Moscow, 1989. - A.201.
[13] International Theories of Cooperation Among Nations: Strengths and Weaknesses Published online by Cambridge University Press: 13 June 2011 https://www.cambridge.org/core/journals/world-politics/article/abs/international-theories-of-cooperation-among-nations-strengths-and-weaknesses/F6C92B44FE37760AA063F1486A68CD84
[14] Global Principles for Cooperation in International Insolvency Cases
[15] https://docs.yandex.ru/docs/view?tm=1635349707&tld=ru&lang=en&name=alireportmarch_0.pdf&text=principle%20of%20cooperation%20in%20international%20law&url=https%3A%2F%2Fiiiglobal.org%2Fsites%2Fdefault%2Ffiles%2Falireportmarch_0.pdf&lr=43&mime=pdf&l10n=ru&sign=0ccb13afa9de1ad7dbc3d1cb879127a9&keyno=0&nosw=1&serpParams=tm%3D1635349707%26tld%3Dru%26lang%3Den%26name%3Dalireportmarch_0.pdf%26text%3Dprinciple%2Bof%2Bcooperation%2Bin%2Binternational%2Blaw%26url%3Dhttps%253A%2F%2Fiiiglobal.org%2Fsites%2Fdefault%2Ffiles%2Falireportmarch_0.pdf%26lr%3D43%26mime%3Dpdf%26l10n%3Dru%26sign%3D0ccb13afa9de1ad7dbc3d1cb879127a9%26keyno%3D0%26nosw%3D1
[16] Dowd, R., & McAdam, J. (2017). INTERNATIONAL COOPERATION AND RESPONSIBILITY-SHARING TO PROTECT REFUGEES: WHAT, WHY AND HOW? International and Comparative Law Quarterly, Vol.66, Issue 4, October 2017, pp. 863 - 892 doi: 10.1017/S0020589317000343