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Traditionally, Public international law has been defined to be solely about States. States have been considered to be the only subjects of international law and the only entities that can make, develop and enforce international law. Other bodies that are affected by international law have been determined to be only objects of international law. In the past few decades, this traditional view has been challenged. The development of international organisations such as the leading global international organization, United Nations, with their own international legal personality, has been important. There are ranges of international organisations that have developed considerably in their roles in the international legal community, such as international corporations, the World Bank (International bank for reconstruction and development), the International Monetary Fund (IMF). Together with States, these international organisations play an enormous role in international law-making, law–adjudication and law-enforcement processes of international law.

This essay will examine the importance of international organisations in the law-making process of contemporary international law. “ International organisations means an organisation established by treaty or other instrument governed by international law and possessing its own international legal personality.” International organisations may include as members, in addition to states, other entities. In general, international organisation stands for membership group that operates across national borders for specific purposes. The idea of international organisation reflects the cooperative arrangement instituted among states, usually by a basic agreement, to perform some mutually advantageous functions implemented through periodic meetings and staff activities. The Penguin Dictionary of International Relations defines international organisation as “ formal institutional structures transcending national boundaries which are created by multilateral agreement among nation states. Their purpose is to foster international cooperation in areas such as security, law, economic and social matters, and diplomacy.” There are key factors in identifying an international organisation. First, such an entity must comprise predominantly of States and other international organisations.

Secondly, the entity must be established under international law. International organisations are usually created a treaty; however, they can also be created by other means. An example of an international organisation created by a resolution is the Organisation of the Petroleum Exporting Countries (OPEC). Thirdly, for an entity to be an international organisation it must have a separate legal personality and be able to act on a majority basis. International organisations do not generally have law-making powers but however, they are involved and play an important role in the law-making process of contemporary international law in the following ways: One of the most common powers given to international organisations is the power to make recommendations usually to members concerning matters within the scope of the organisation. For instance, in situations in regarding education, the United Nations Educational, Scientific and Cultural Organisation (UNESCO) may give recommendation on an area that needs improvement to members i. e. States that are members of the organisation or to another international organisation.

It can be said that by so doing international organisation play a role in the law-making process, however, their recommendations are not binding or becomes a law. They do not create legal obligations for member states but they are put into consideration and sometimes become a practice. Another way international organisations are involved in the law-making process is the power of interpretation of the treaty setting up the international organisation. Since the organs of international organisation will need to have some appreciation of the scope of their functions and powers in order to carry them out, these organs will necessarily and routinely have to interpret the treaty by setting up the international organisation. Interpretations will take place both formally and explicitly. Some international organisation treaties provide for interpretation by particular organ. For instance, international financial institutions there are often an obligation to submit questions of interpretation to the Executive members of the institution. In this situation, the interpretation is binding or at least the parties to the dispute and in most cases it becomes binding on all members.

International organisations are often given powers to take decisions in relation to their scope of practice. Decisions are taken in the course of carrying out the tasks entrusted to the organisation. There are instances where decisions of the WHO setting standards in respect to pharmaceutical and other products, decisions of the UN Security Council imposing sanctions on a State; decisions of the ICAO Council relating to safety standards for international aviation. As already stated above, international organisations do not have law-making powers but some constituent treaties confer on some organisations the power to issue decisions binding on all members. There are also some non-binding decisions, which members are not bound by it but there are provisions in place for members to consider it in good faith. However, non-binding decisions of international organisations may contain rules of law that are or may become binding through other processes of international law. Such examples are Resolutions of the UN General Assembly which are crouched in declaratory terms, this resolutions may play a role in the formation of new customary rules so that the rules contained therein may come to be regarded as binding.

Non-binding decisions are not without legal effects and the rules contained in those decisions may be binding through a link with other treaties or under customary international law. In conclusion, although, international organisations do not directly take part in the law-making process, their actions and the impact they play, such as, recommendation, power of interpretation, decision-making and so many other ways not stated contributes so much to the law-making process of contemporary international law and their role can not be over looked or ignored. The realization by States that problems faced by them and their population can best be resolved through international cooperation can in future leads to a likely increase not only in number of international organisations but also in the powers and functions accorded to those organisations.

References:

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