

OBLIGATIONS OF A PERSON, AS AN INTEGRAL PART OF THE INTERNATIONAL LEGAL STATUS OF AN INDIVIDUAL

^aANDREI AKHMETZIANOV,^b GULNARA SHAIKHUTDINOVA

Kazan Federal University, 18 Kremlyovskaya street, Kazan 420008, Russia
email:^aAxmed-91@mail.ru, ^binfo@prescopus.com

Abstract. This article addresses the issue of an individual status in international law. The concept of international law subject is given. They performed the analysis of international law sources for the existence of recorded personal obligations. Person obligations are considered from the point of view of sociology. They justify the need for a person to have duties in order to maintain the normal functioning of all social groups within which normal development and existence of a person is possible. The authors point to the trends of international law development in the field of human rights and obligations, namely, the presence of potentials to consolidate human obligations at the international level. It is proposed to think about the development of human responsibility universal concept. They consider historical aspects of human responsibility concept development. The authors draw conclusions about the need to develop the institution of human responsibilities at the international level.

Key words: sociology, normal functioning, international law.

1 Introduction

In the framework of this work, we would like to consider such a legal phenomenon as human obligations in international law. This phenomenon will be considered through the prism of the international personality of a person. This question is relevant today, as the development, expansion and strengthening of international personality concept takes place in modern legal reality. The institute of the international personality of a person will not be able to exist and function fully without such concepts as human rights and human obligations. The purpose of this work is to point out the currently existing gap both in international legal reality and in the science of international law.

2 Methods

In the framework of this work, we will use the following universal methods: analysis, synthesis, general scientific methods: deductive method, private scientific methods: historical and legal method, legal prediction method.

3 Results And Discussion

In the modern doctrine of international law, discussions are held regarding the nature and existence of an institution of the international legal personality of a person. Some scholars believe that a person as such does not have international legal personality and cannot act independently as a participant in public relations regulated by international law.

L. Oppenheim can be attributed to the scholars who do not consider an individual as a subject of international law. He stated that "the only subject of international law ... are the states." (Oppenheim, 1949).

A German, international scientist I. Seidl-Hochfeldern, has a similar position in his works. He states the following: "An individual does not have the legal capacity in the sense that he needs the state procedural assistance to protect his personally international legal requirements, and he also has no international legal capacity, since these claims belong, as a rule, not to him, but to his state." (Seidl-Hohenveldern, 1965).

Another supporter of the above point of view is the international scholar A.P. Movchan. He writes the following: "Since the subjects of international law give their mutual relations a legal character, it follows that individuals cannot be the subjects of international law, since an individual cannot have a normative effect on international relations." (Movchan, 1988).

However, there is another point of view in the international legal doctrine according to which an individual is recognized as the subject of international law.

This point of view is confirmed in the scientific works of many authors, for example:

- G. Schwarzenberger is an international scholar who claims that there are no obstacles in international law to declare an individual to be his subject. Therefore, he says, the international personality of an individual is not an issue of principle, but an issue of fact (Schwarzenberger, 1967).
- Chilean international scholar, Professor A. Alvarez in his book "New international law in its relations with the modern life of peoples" stated that, unlike classical international law, the subjects of which were only states and the pope, the subjects of new international law are the individuals with international legal personality along with states by virtue of the UN Charter (Alvarez, 1959).
- Pierre Vellas, a professor at the University of Toulouse is among the authors claiming that the international legal personality of an individual is the provision of general international law, based, in particular, on the UN Charter. He says that over the past century, an individual has gradually become a subject of international law in an ever-increasing volume. If initially the case was limited to criminalizing individuals for the most serious encroachments on the international public order, then gradually, through the system of patronage of individuals or population groups, international law came to the recognition and protection of fundamental rights and freedoms for all, enshrined in the UN Charter (Vellas, 1970).

With regard to judicial practice, first of all, in our opinion, we should turn to the activities of the Nuremberg and Tokyo Tribunals. First of all, I ask you to pay attention to that part of the sentence of the Nuremberg Tribunal, which confirms the competence of the Tribunal, its right to judge the main German war criminals.

As you know, the Tribunal rejected the defense objections, which boiled down to the fact that "international law considers only the actions of sovereign states, without imposing punishment on individuals", and that persons who commit criminal acts on behalf of the state "do not bear personal responsibility, but are under state sovereignty doctrine protection." The Tribunal concluded that individuals could be punished for the violations of international law. "Crimes against international law," the verdict says, "are committed by people, not by abstract categories, and international law can be respected only by punishing individuals who commit such crimes." (Jurizdat, 1961).

With regard to modern judicial practice, the very existence and activities of such international institutions as the European Court of Human Rights, the International Criminal Court, the Human Rights Committee (in the light of the Covenant on Civil and Political Rights), speaks of the actual and legal recognition of international legal standing of a person (Tosheva, 2016).

And of course, one should not forget the fundamental international agreements in the field of human rights that confer rights directly on individuals, such as the Universal Declaration of Human Rights, the Covenant on Civil and Political Rights under which, on the basis of an additional protocol to the ICCPR of December 19, 1966, they provided the possibility of a private complaint submission to the UN Human Rights Committee, the European Convention for the Protection of Human Rights and Fundamental Freedoms, which at the regional level recognizes partial international legal standing of an individual, as an individual has the opportunity in accordance with the Art. 34 of the said Convention to assert his rights in an international process against a state - the member of the ECHR.

In our opinion, the latter point of view is true and corresponds to the existing international legal reality and the main trends in its development.

So, taking the assertion that an individual is a subject of international law as a basis, we turn to the very concept of international law subject.

Here are two doctrinal definitions of the concept of international law subject, which in my opinion are the most complete and true:

The first definition we can find in the textbook of international law edited by Wolfgang Graf Wittstum. The subject of international law, according to the source indicated above, is exclusively "the holder of international rights and / or duties, the actions of which are directly regulated by international law." (Verdross, 1984).

Observing certain parity, we propose the second definition to be taken from the domestic doctrine of international law, for example, in the textbook of International Law edited by S.A. Egorov, the subject of international law is the holder of international rights and obligations, i.e. the rights and obligations arising from a person (in a collective sense) as the result of the extension of any norms of international law or individual requirements, permissions and prohibition effect on him contained in international legal acts (Egorov, 2015).

I would like to draw your attention to the fact that in both definitions of international law subject, scholars speak of both rights and obligations that are inherent in the subject of international law (Lee, 2019).

At the same time, when we talk about an individual as a subject of law (irrespective of a particular industry), we must also remember such an important legal institution as the legal status of an individual, which, as we all know, includes rights and obligations.

Summarizing the abovementioned thoughts, we would like to highlight two fundamentally important points:

1. Human obligations are the part of the legal status of an individual; accordingly, for the optimal functioning of an individual legal status institution it is necessary to have both human rights and his duties, both at the national and international levels.
2. Obligations are an integral property of any subject of international law, therefore, in order to be a full-fledged subject of international law for an individual, he must have both rights (a universal list that exists in modern international legal reality and does not raise any doubts), and the corresponding responsibilities (the consolidation of which at the universal international level, in my opinion, is long overdue).

The presence in international law of human rights alone in the vast majority of cases, in our opinion, is purely unfair, illogical and incorrect phenomenon from a formal logical, legal and philosophical point of view.

Mahatma Gandhi, who was consulted on the UN Declaration of Human Rights, wrote: "Giant rights arise in the Himalayas of responsibility."

At the time of the conception of human rights, namely during the great French Revolution, discussions were held in the French Revolutionary Parliament of 1789 that, if a universal declaration of human rights was proclaimed, it should be combined with a universal declaration of human obligations. Otherwise, all will have only the rights that they will use against each other, and no one will know about the existence of duties without which these rights will not be able to function. Almost half of the Revolutionary Parliament, which voted in favor of the Declaration of Human Rights, also voted in favor of human obligation provision in the form of a particular normative act (Küing, 2005).

Accordingly, a balance is needed, a balance of human rights and obligations, and equal attention should be paid to both components of the legal status of an individual. We believe that it is necessary to take the following formula as the basis, developed by one of the outstanding philosophers of the 19th and 20th

centuries: "there are no rights without duties, and no duties without rights." (Marx, 1960).

At the same time, it would be wrong to say that human obligations are in no way represented in legal and scientific reality.

For example, the article 29 of the Universal Declaration of Human Rights states that everyone has duties to a society in which free and full development of his personality is possible.

You can also refer to the American Convention on Human Rights, namely, the article 32 of this convention, which is called: "The relationship between duties and rights." In the framework of this article, it is said that each person is responsible to his family, society (in this case, in our opinion, society can be understood as the entire population of that country, a citizen or a resident of which is an individual, and its individual parts, for example a society of citizens living in one municipal district or a society of neighbors belonging to the same neighboring commune, etc.) and humanity. Also in paragraph 2 of this article it is stated that the rights of any person are limited by the rights of others, the security of all, as well as a fair demand for general welfare in a democratic society.

If we turn to the African Charter of Human and Peoples' Rights, adopted in Nairobi on June 26, 1981, then we will see a direct reference to the universal duties of man. The paragraph 1 of the Article 27 of the said charter sets out the obligations of a person to certain groups and provides that each person has duties to his family, society, the state and other legally recognized societies and the international community. The article 28 further establishes a person's obligations towards other people and stipulates that "everyone is obligated to treat his fellow citizens with respect, without discrimination, and to maintain relations aimed at development, protection and strengthening of mutual respect and tolerance."

The convention of the Commonwealth of Independent States on the rights and fundamental freedoms of man, concluded in Minsk on May 26, 1995, also in a certain way "relates" to the concept of the obligation of a person, the clause 2 of the Article 11 (the right to free expression of opinion is enshrined in this article) says that there are certain duties and responsibilities for individuals who exercise the right to express their opinion.

Also the Cairo Declaration on Human Rights in Islam, adopted in Cairo in 1990 is of great interest in our opinion. The article 1 of this declaration states that all people are equal in fundamental human dignity and fundamental obligations and duties, without any distinction on the basis of race, color, language, gender, religious faith, political views, social status and others grounds. The article 2 states that each person has an obligation to maintain the right to life. The article 6 states that a woman has equal rights with a man concerning human dignity and is endowed with both rights and obligations, while a man has an obligation to ensure the well-being of his family. The article 9 establishes the obligation for each person to receive knowledge, that is, in fact, establishes the obligation of self-improvement, self-development for each member of society. The article 13 establishes the obligation for each working person to carry out his work scrupulously and faithfully.

Based on the foregoing, we can conclude that in the field of international human rights, in the field of the general theory of international law, and in the general theory of law, there is a need and potential for creation and translation a universal concept of human obligations into legal reality.

If we put aside the legal aspect and turn to sociology, we have the following picture: a person, as you and I all know is a social animal, it is necessary to have a society, a certain group of people like him for his normal and harmonious development. It can be a family, a state (as the highest form of self-organization of people at the moment), or the entire world community of people as a whole. For the existence of society, it is necessary to have a certain set of rules without which society as such cannot exist, and

in the absence of society people cannot exist and develop harmoniously. In order to ensure the existence and effective functioning of society, each of its members must make a certain contribution, take certain actions aimed at the functioning of a human community, its protection and development. The mechanism of human responsibilities is used and should be used in the framework of the implementation of the above goals. That is, the duties of a person are that necessary minimum of proper behavior of each member of the society, which contributes to the maintenance, protection and development of one or those social groups of which each individual person is a member.

4 Conclusions

Summarizing all of the above, we can come to the following conclusions:

1. For the harmonious, logical development of the institution of international personality of the individual, it is necessary to develop both the institution of human rights and the institution of human obligations;
2. In modern international legal reality, there are certain prospects both at the universal and at the regional levels, aimed at human obligation consolidation at the international level. The indicated potencies, in my opinion, need support and further development.

5 Summary

In conclusion, I would like once again to draw attention to the fact that human rights and obligations are equally important parts of a person's legal status, regardless of the branch of law. The development of the institution of responsibilities at the international level will contribute to the final formation of the international personality of an individual and will help to remove any disputes in this regard.

Acknowledgements

The work is performed according to the Russian Government Program of Competitive Growth of Kazan Federal University.

Literature

1. Alvarez, A.: *Le droit International nouveau dans ses rapports avec la vie actuelle des peuples*. Paris, 1959, 426 p.
2. Egorov, S.A.: *International law: Textbook*. in charge Statute, 2015.
3. Jurizdat, M.: *The Nuremberg trial of the main German war criminals. The collection of materials in seven volumes*. 1961, V. 4, 368 p.
4. Küng, H.: *Global ethic and human responsibilities*. InSubmitted to the High-level Expert Group Meeting on Human Rights and Human Responsibilities in the Age of Terrorism, 2005, (1-2) p.
5. Marx, K.; Engels, F.: *Collected Works*. Volume 16. M.: GIPL, 1960, 4 p.
6. Movchan, A.P.: *International Protection of Human Rights*, (1988). p. 31.
7. Oppenheim, L.: *International law*, M., Publishing house of foreign literature, volume I, half-volume 2, 1949, 201-202 p.
8. Seidl-Hohenveldern, J.: *Völkerrecht*. Köln-Berlin, 1965, 138 p.
9. Schwarzenberger, G.: *A Manuel of International Law*. Fifth ed. London, 1967, 80 p.
10. Veillas, P.: *Droit international public*, 2-e ed. Paris, 1970, 327-328 p.
11. Verdross, S.: *Universelles*, 3. Aufl 1984, 22.
12. Lee, M.Y.: *A Case Study Examining Links between Fractional Knowledge and Linear Equation Writing of Seventh-Grade Students and Whether to Introduce Linear Equations in an Earlier Grade*. *International Electronic Journal of Mathematics Education*, 14(1), 2019. 109-122 p. <https://doi.org/10.12973/iejme/3980>.
13. Tosheva, D.: *National-cultural outlook onto the zoonym component aphorisms*. *UCT Journal of Social Sciences and Humanities Research*, 4(3), 2016. 1-4 p.

Primary Paper Section: A

Secondary Paper Section: AG, AO