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Reciprocity in international law
Хайрутдинова Юлия Ринатовна
Студент (бакалавр)

Московский государственный университет имени М.В.Ломоносова, Юридический
факультет, Москва, Россия
E-mail: khayrutdinova.julia@gmail.com

Reciprocity in international law

Reciprocity is a central concept in international law. It plays an important role in a decentralized horizontal system that is the international community. Reciprocity may be responsible for a huge number of interstate cooperation or transactions and it is also dedicated to maintain some basic principles such as the principle of sovereignty [1].

Nowadays, globalization processes run with tremendous speed, causing the boost of political, economic and other interactions between different states. These interactions are provided mostly by bilateral and multilateral treaties. By these acts as well as by the international customary law parties accept particular obligations and receive some rights. Treaties, agreements, pacts, customs etc. are based on such notion as reciprocity that underlies them. As long as globalization is likely to even rev up, I suppose the analysis of the principle of reciprocity is a question of vital importance for getting a good grasp of today's international interactions. The goal of my research is to make a strict scrutiny of both theoretical and practical aspects of the notion, as well as to point out the problems it can cause.

Reciprocity is often described as the tit-for-tat strategy. This means that at the very beginning each party cooperates with its counterpart. Then it follows the behavior of the other side: continue cooperating if he cooperated or defect otherwise [2]. Such strategy is enough effective in an international community, where no authority for enforcement of agreements exists.

Customary law, for instance the free use of the high sea, is great example to demonstrate reciprocity as a fundamental feature of the international law [3]. The same mechanism applies in the case of bilateral and multilateral treaties. It is important to mention, that multilateral treaty abstractly transforms into the set of many bilateral treaties, and each of them regulates the relationships between a particular pair of parties. In other words, each party has a right or an obligation in relation to one other side only. And the same way, only injured party has a right to claim the cessation of the wrong or reparations. This can be explained by considering the nature of states. Every state is self-seeking and the national interests prevail. No states want to intervene into the conflict between two others, if their own interests are not affected.

The principle of reciprocity is typical only for the international community and its legal system and it does not apply in the internal affairs of any particular state. The crucial difference between the national legal system and the international law in applying the reciprocity can be seen in a case concerning the reaction to a wrong. The former contains a special public official who can initiate legal proceedings if the obligation is breached by someone regardless of the desire of the injured party, whereas there is no such representative in the latter [4]. A state has to possess a certain force to defend its own interests and, moreover, to demand anything from other states or to force them to act in a particular way.

However, there is number of problems related to the reciprocity. Only having the full and true information about the actions of the other party, both parties can cooperate in effective way. Actually, it is quite likely that one side will face difficulties in monitoring another, no matter if its counterpart intentionally puts a spoke in its wheel or it is just a matter of its

own failures, and therefore this will create difficulty for the process of noticing violations. Also, as far as reciprocity implies returning ill for ill as well as good for good, its moral status is ambiguous and thus a mutually harmful conflict, which in fact is not necessary at all, can be provoked or exaggerated [5].

Also, there are several exceptions of the phenomenon of reciprocity. Among them it worth mentioning the general rule on piracy and the right of riparian states to navigate freely on the international rivers. Both of these exceptions derived from the judicial decisions [6, 7].

To sum up, in my research I try to show that the interrelations of states in the international community are some kind of specific relations supported by the use of the principle of reciprocity. Even though the international rules address themselves to all States - as in the case of customs - or group of States - as in the case of treaties, they confer rights and impose obligations on pairs of States only and regulate relationship between them, using the tit-for-tat strategy. Reciprocity provides for the cooperation among states, it aims to regulate the possible difficulties in the area of enforcement and it provides a standard of behaviour - expressed well as tit-for-tat strategy [8]. But it is important to remember that the reciprocity is just a mechanism to establish the cooperation and to maintain it in a level high enough to get some benefits and to protect states from each other, but not to promote this cooperation. It protects the states against exploitation and serves as an efficient regulator but thereby it restricts the possible agreements that can be reached, complicates multilateral negotiations and may provoke bitter disputes even in bilateral relationship.

Источники и литература

- 1) Barker J.C. International Law and International Relations. New York; Continuum, 2000. P.31
- 2) Dyer D.W. Opponent Modelling and Strategy Evolution in the Iterated Prisoner's Dilemma. World Scientific, 2007. P.6.
- 3) Morrow J.D. How Does Reciprocity Work? Evidence from the Laws of War. URL: https://www.law.berkeley.edu/files/spring05_Morrow.pdf
- 4) Cassese A. International law. Oxford: Oxford University Press, 2005. P.13-15.
- 5) Keohane R.O. Reciprocity in International Relations. International Organization, 1986. Vol. 40. P.10-13.
- 6) URL: <http://www.fao.org/docrep/005/w9549e/w9549e07.htm>
- 7) URL: <https://archive.org/details/areportcaseloui00admigoog>
- 8) Parisi F., Ghei N. The Role of Reciprocity in International Law. // Cornell International Law Journal. 2003, №36(1). p. 93-94.