

Eurocentrism to Global Multilateralism: Empirical Literature Review of the Metamorphosis of Modern International Law

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ABSTRACT

The development of international law was a long standing historical process which was influenced mainly by European intellectual traditions, political interests and expansions of empires. The principles of sovereignty, territoriality, diplomacy and state behavior have been determined since centuries in a perspective of European powers which enjoyed a disproportionate power in the international matters. The period after 1945 has however ushered in fundamental developments such as decolonisation, increasing global interdependence, and the expansion of international institutions brought a more inclusive multilateral order. This article is an empirical literature based evaluation of the effect of the move to a Eurocentric to a multilateral international system on the evolution of the contemporary international law. The work based on the contributions of the academic literature, assesses the transformation of the law making processes, human rights norms, trade regimes, dispute settlement structures and customary international law. The review concludes that modern international law has become much more universal, participatory, and normatively varied but still structural imbalances based on the fact that Eurocentrism are present. The change, thus, is indeed significant yet not final, it represents a changing legal order of the world, instead of complete eradication of inequalities of the past.

Keywords: Eurocentrism, Multilateralism, Decolonisation, Globalisation, International Law, International Institutions.

INTRODUCTION

The international law was not created out of thin air. It was formed within a certain geopolitical environment giving European states an upper hand as the key shapers of international standards. Since the Peace of Westphalia in 1648 to the apex of nineteenth century imperialism, the principles that govern international behavior were created mostly by European states and were based on their political ambitions and strategic goals (Berman, 2017). Consequently, the early international law had an underlying Eurocentrism, its principles took into account European conceptions of sovereignty, civilisation, territorial dominance and legal jurisdiction.

During this time, the international law more often than not treated non-Western societies as an object and not as an equal. They were mostly ignored in terms of law, their political structures were ignored and their voices were not taken into account in official norm-making (Anghie, 2005). It is in this way that international law developed in the context of high structural inequality, which strengthens the political and economic hierarchies of world order.

The twentieth century was associated with revolutionary change. Decolonisation widened the community of sovereign states, global integration of economies and technologies escalated interdependence and multilateral institutions became the key focus of global governance. These trends created a moving trend toward a more general and participatory legal order whereby different states not a small group of European powers determine the rules that the world will go by. This paper discusses the level of this change. It employs a literature based empirical method to determine how the shift towards Eurocentrism to a multilateral world system has impacted the content, processes, and structures of authority of the contemporary international law. It evaluates the reality

of the contemporary norms and institutions as indicative of true universality or the Eurocentric legacies of casting long shadows over the practice of global law.

METHODOLOGY

Empirical Review of The Literature

This paper employs an empirical review that will be based solely on the literature available, institutional writings, and cases. The analysis is based on three steps:

Empirical Conceptual Analysis

The article is supported with scholarly sources as the empirical evidence provided in the form of Shaw (2017), Anghie (2005), Kingsbury et al. (2005), and Charney (1993), which provide the evidence of the evolution of international law in the context of the rise of multilateralism.

Qualitative Thematic Synthesis

Literature is divided into thematic areas which indicate key elements of the transformation of international law: law-making, human rights, economic governance, customary international law, and dispute resolution.

Primary Source Documents of Doctrinal Review

The main evidence of structural change is treaties, institutional documents, and judicial opinions, such as the United Nations (UNV) Charter, the International Court of Justice (ICJ) Statute, and major multilateral agreements. This approach provides a rigorously analytic, well-supported study which does not require field data.

Eurocentric International Law Foundations

International law was rooted in the intellectual tradition and political forces of the Europeans early on in its formation. The conceptualization of sovereignty and the laws of war and the behavior of states was done by a classical jurist Hugo Grotius, Francisco de Vitoria, and Emer de Vattel using the experiences and interests of Europe (Orakhelashvili, 2010). Most of their philosophy was present in their writings, which formed a basis of much of the philosophy that was later built. The European states used the treaty-making practice that hardly incorporated non-European powers as equal partners. Negotiations of treaties during the colonial era usually had a binding effect on colonised countries without consultation or consent. The native legal systems were relegated as substandard or barbaric, and therefore they were not to be considered in the formal context of the international law (Anghie, 2005).

The colonial experience created a legal hierarchy where the European states were a sovereign equal to each other, whereas the colonised territories were denied international legal personality. This biased appreciation of sovereignty contributed to the internalization of inequality in the international system further. The Eurocentric model essentially influenced the initial direction of the discipline by putting a premium on European norms and deemphasising non-Western political orders. But however dominant it might be, this model was constrained. Being exclusionary, having a very limited geographical scope, and being selective in applying legal principles gave it structural defects that were to be the precursor to institutional and normative change.

The Elevation of A Multilateral Globalised Framework

The middle of the twentieth century became the point of change in the development of international law. As the Second World War came to its conclusion, there were new powers that transformed the world and were able to disrupt Eurocentric international order.

Decolonisation and the Extension of Sovereignty

During the 1940s-1970s, decolonisation brought more than a hundred new states to the global arena. The once Eurocentric order was forced to receive the different political, legal, and cultural traditions (Shaw, 2017). These states insisted on their equal roles in making decisions globally requiring a restructuring of structures and assumptions that had been assumed to be natural.

The Multilateral Institution of the United Nations

With the formation of the United Nations, there was a general platform of discussion and collaboration. The Charter of the UN did not favor the notion of sovereign equality, collective security or human rights; unlike its predecessors, which were predominantly European, the Charter listed the principles as applicable to all states (United Nations, 1945). This changed the relations of international law to be regional and turned to the international negotiation.

Transnational Interdependence and Globalisation

The international trade, technological growth, and environmental interdependence further added to the necessity of the inclusive legal frameworks. Climate change, migration, ocean governance, and global trade are issues that can only be solved in a collaborative manner that cannot be achieved by an individual region or historical tradition.

Multilateral Legal Institutionalization

There are now institutions like world trade organization (WTO), International Criminal Court (ICC) and regional human rights Courts where all states in the regions engage in rule making, dispute resolution and enforcement of norms. All these changes were a deep shift toward a truly multilateral global order instead of Eurocentric.

The Shift: Empirical Review of how the Shift Reshaped Modern International Law

Sources of International Law Transformation

Article 38 of the ICJ Statute is a helpful prism with the help of which the modification of the sources of international law can be assessed.

Treaties

Where in the past treaties were mainly European tools, the treaty law as it is nowadays portrays the involvement of almost all the sovereign states. The existence of landmark agreements like UN Charter, covenants on human rights and environmental treaties are indicative of a degree of universality that was not experienced before the mid-twentieth century.

Traditional International Law

The application of state practice in the world has now become part of customary international law. According to Charney (1993), this is one of the most dramatic changes in the contemporary international law, where the custom is no longer a continuation of the European diplomatic custom but has become a truly global source.

General Principles of Law

The general principles are based on varied domestic legal traditions such as the African customary law, Islamic law, Asian law, civil law and common law.

Criminal Cases and Academic Works

The non-Western view of the law is becoming part of the jurisprudence of the ICJ. Legal reasoning on the global scale is now informed by the scholarly input of the entire world.

Human Norms and Rights and Normative Expansion

Even the international law of the pre-1945 era devoted little attention to the issue of human rights, and the norms, which were in existence, were rooted in European philosophical thought to a great extent. The landscape after the war changed in a radical manner. The Universal Declaration of Human Rights provided an international standard of human dignity and thereafter, the rights were codified in the form of treaties. Non-Western ideas of community, solidarity, and collective responsibility are captured in regional human rights instruments such as African Charter on Human and Peoples Rights (Donnelly, 2013). This variety is one of the most obvious exits out of Eurocentric legal thinking.

International Law of Economic and Trade

Globalisation in the economy necessitated a multifaceted institutional structure that was capable of dealing with the multidimensional interdependence. World Trade Organization (WTO) substituted bilateral trade practices of the European standards with global system of rules. The involvement of developing countries in the process of forming the modern economic governance can be seen in the form of regional projects, like the African Continental Free Trade Area (AfCFTA). This change is an indication of an increased equilibrium between developed and developing countries in the formulation of international economic standards.

Processes for handling Conflicts

The European states dominated the early dispute resolution structures like the Permanent Court of Arbitration. Contemporary Courts like the ICJ, ICC and regional Courts are more fair and equitable in offering access to justice. Sovereign equality is now officially accepted and juridical procedures are opened to the states of all continents.

Customary Law Evolution and Worldwide Intervention

Now, customary international law is reflected:

- Maritime practice thus developing coastal states under United Nations Conventions on the Law of the Sea (UNCLOS)
- Postcolonial inspired practice of human rights.
- Environmental norms being influenced by the vulnerable developing nations that are at risk due to climate.

This expanded involvement represents an indisputable shift away of the Eurocentric sources of tradition.

Examples Of Case Studies of The Shift

The Namibia Advisory Opinion (ICJ, 1971): The fact that the Court acknowledged the international legal personality of the new African states acted as the rejection of the colonial legal hierarchies and legitimized the sovereignty of the new states.

The Paris Agreement (2015): This accord reflects the latest template of multilateral negotiation where the developing nations were key influencers in determining the climate governance and this reflects inclusivity in a great way compared to the previous treaties led by Europeans.

African Court on Human and Peoples' Rights: This is a quasi-regional conception of human rights, where the African socio-cultural norms are incorporated into the larger international human rights platform.

Continuing Pains and Longstanding Systemic Inequities

Even though there is an advantageous development, there are still various issues that hinder the complete implementation of a truly multilateral international legal order.

Power Lapses: Organizations like the Security Council in the UN still tend to assume power in the hands of limited powerful countries. This institutional inequality is a product of historical processes based on Eurocentric politics.

Limitations on Compliance and Enforcement: The international law continues to rely heavily on self-help compliance, and mighty nations usually influence or determine enforcement systems to advance their own agendas.

Cultural and Normative Tensions: Culturally normative tensions arise in the attempt to harmonize universal standards and the existence of a wide range of cultural customs, and such tensions provoke the issues of globalization and regionalism. It is these continual challenges that indicate that the international legal order has significantly developed but not fully.

DISCUSSION

The reviewed literature shows that the international law has experienced significant and meaningful change of Eurocentrism to a more inclusive and multilateral approach. New states have not simply been assimilated into the system they have actively contributed to redefining it. Here we can see the diversification of treaty law, development of customary law, emergence of regional Courts, and increase of human rights standards that are indicative of plurality of philosophical traditions. Nevertheless, the fact that structural inequalities continue to exist in the global institutions is an indication that the traces of Eurocentric dominance have not been completely eliminated. The unequal application of power, institutional hierarchy, and power politics are still influencing outcomes to uphold the old patterns. The modern international legal order can thus be said to be a hybrid order: it is a world order that is affected by multilateral cooperation and limited by historical imbalance. The transition is drastic, and it is in the course of completion.

CONCLUSION

The shift in Eurocentric international order to a multilateral global system has had immense implications on the nature and orientation of the current international law. The increase in participation, the variety of normative bases and the expansion of the universality of the legal system have been contributed by decolonisation, globalisation, and the growth of international institutions. Modern international law is more inclusive, rich, and reflective of world realities than it ever has been in the past. However, some of the buildings still bear the manifestation of the Eurocentric power relations proving that the process is not unconditional but slow. The contemporary international legal order can be thus regarded as an evolving system or one that has shifted decisively towards universality though still possesses remnants of its historical roots. The law is likely to become increasingly pluralistic, legitimate, and representative of the diverse world to which it aims to apply in so far as global cooperation continues to intensify and other actors increasingly establish themselves and impose themselves upon it.

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Conflict Of Interest

The authors have no conflict of interest for this manuscript.