

THE SPECIFIC CHARACTERISTICS OF PEOPLES AND NATIONS FIGHTING FOR THEIR INDEPENDENCE AS SUBJECTS OF INTERNATIONAL LAW

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ANNOTATION

This article provides practical information about the concept of subjects of international law and their types. It also discusses the specific characteristics, history, and current role of peoples and nations fighting for their independence as subjects of international law. Analytical views on the place and role of these states in the international arena are presented using current political processes.

In the current era of globalization, each state has its own legal system and operates independently internationally. International relations cannot be imagined without subjects of international law. When analyzing subjects of international law, first of all, let us consider what subjects of international law are. They are “subjects that have rights and obligations arising from international law, protect it, and enter into international relations regulated by international law.” Until the 20th century, when the development of international law for many years was a process dependent on states, states were considered the main subjects in international law. It was precisely until this period that states were considered the only subjects of decisive importance in international relations. Historically, states have been the main and primary subjects in international law. There are many theories about subjects of international law. For example, we will study three general theories about subjects of international law. These are:

- 1- Realistic theory
- 2- Fantastic theory
- 3- Functional theory

Realistic theory is a theory put forward by Bentobin in the 18th century. This theory states that “Only states should be recognized as subjects of public international law. According to this theory, international law regulates the behavior of states and only therefore states should have the status of subjects. According to the representatives of the fantastic theory, in the final analysis of international law, only individuals are subject to international law. Professor Kelzin is the main proponent of this theory, who argues that only individuals are worthy of the authority to be subjects of international law. He emphasizes that the rights and duties of states are the rights and duties of the people who created them. Theory

According to scholars of the functional theory of international law, neither other theories nor fictional theories are rejected. However, the functional theory seeks to respond to both extremist theories in a new way. According to this theory, neither states nor individuals are unique subjects; both are an integral part of international law and, therefore, both are subjects of international law. States, which are the main and active subjects of international law, recognize the rights, duties and obligations provided for in international law and are able to maintain them by bringing international claims. At the same time, in modern international law, individuals are also given certain rights, duties and obligations under international law and can maintain them by international claims. In international law, international organizations and international non-governmental organizations, peoples struggling for their independence are also trying to find their place, they are making a continuous effort to obtain the status of subjects. So, according to these theories, the state is included in the list of main subjects. The state should certainly be the main subject, but we believe that it would be appropriate to include organizations and international non-governmental organizations as additional subjects instead of including them in the list of main subjects. Over the years, as a result of the liberalization of the international legal system, the concept of subjects in international law has expanded, for example, the category of nations and peoples struggling for their independence has been added to the circle of subjects of international law. Their place and role in international legal frameworks are among the most complex and evolving issues. Support for their rights is increasingly growing.

In the current international legal system, subjects of international law are divided into two main types. These are: Primary subjects of law and secondary legal subjects.

- 1- States
- 2- Nations and peoples fighting for their independence are considered primary legal subjects
- 3- Source Secondary legal subjects include
- 4- International interstate organizations
- 5- State-like structures
- 6- Final documents of the 1975 OSCE.
- 7- Individuals (currently a controversial issue)
- 8- Statutes of international organizations, international resolutions and declarations.

A state as a subject of international law must have a number of characteristics, which was reflected in the “Inter-American Convention on the Rights and Duties of States”, concluded in Montevideo (Uruguay) in 1993. This norm states that

“states as subjects of international law must have the following characteristics: a) with a permanent (settled) population; b) possession of a certain territory; c) the existence of a government; d) the ability to enter into relations with other states”

Derivative subjects include state-like structures, international organizations, individuals. When it comes to state-like structures, the Vatican is the simplest and most understandable example. The Vatican (Holy See) refers to. Until 1870, the Papal State was considered an independent structure and a subject of international law. However, when the Papal State was conquered by Italy in 1870, Rome became the capital of the Italian state, it lost its independence. In addition, international organizations are subject to the subject, the Malta Organization has its representative office in UNESCO and a number of other international organizations. It is considered an organization that is not opposed to the government and is engaged in charitable activities.

Individual as a subject of international law, in the literature on international law there are opinions that the individual also has limited international legal capacity. In this regard, supporters of this theory, first of all, believe that international law directly confers rights and obligations on the individual. They draw attention to the fact that they create. Indeed, there is a basis for these ideas. Because in international law, a number of crimes such as piracy, genocide, apartheid are known, and when carrying out international criminal justice over an individual through the International Criminal Court or a specially established international criminal tribunal, these crimes can be directly considered as international crimes. In our opinion, international organizations do not have their own sovereignty. For this reason, they should not be the main subjects. We believe that since they do not have sovereignty, they cannot express their position as the main subjects in international law. Over the years, as a result of the liberalization of the international legal system, the concept of subjects in international law has expanded. For example, the category of nations and peoples fighting for their independence has been added to the circle of subjects of international law. The 1969 Declaration on the Granting of Independence to Colonial Countries and Peoples, the 1970 Declaration on Principles of International Law, the 1993 Vienna Declaration and the Movement for the For example, I.I. Lukashuk, A.Kh. Saidov believe that, “According to the point of view put forward by some international legal scholars, the main claimant to sovereignty is the people, and accordingly, the people appear as a subject of international law. In this case, the subjectivity of international law should be recognized, and it is appropriate to emphasize that when a people is understood, at least - as a certain economic and cultural historical unity that recognizes its integrity.” According to another theory, only nations and peoples fighting for their national liberation and the establishment of an independent state

are considered subjects of international law. The inclusion of such nations and peoples among the subjects of international law, according to the rule, occurs only when they establish some kind of body coordinating their struggle (for example, such an organization is the Palestine Liberation Organization), which will subsequently act on their behalf until the establishment of an independent state.” It is defined as. Turning to foreign experience, Malcolm N. Shaw's book “International Law” deals with the criteria for statehood of nations and peoples struggling for self-determination and independence in a separate chapter. According to it, “Nations and peoples that aspire to become states and that use the principle of self-determination, accepted by the international community, are recognized as subjects of international law. They may be included in the ranks of member states in international relations and organizations in some cases as observers. It is stated that. Thus, if we study the above points and conclude, the theories about nations and peoples fighting for their independence are somewhat different, but all theories emphasize the principle of self-determination of peoples as a basis. It is clear from this that in order for nations and peoples fighting for their independence to be subjects of international law, they must be exercising the right to self-determination and carrying out liberation movements. Nations and peoples fighting for their independence must be one of the nations or peoples actively acting in political, economic, cultural and other ways to declare or strengthen their state sovereignty. The distinctive features of nations and peoples fighting for their independence are their historical, ethnic, linguistic, religious, cultural and other differences, their goals and methods of state formation, the means they used to achieve independence and the methods of struggle can also be examples.

Nations and peoples fighting for their independence are defined as the main subjects of international law. In order to be recognized as a state, they must meet certain requirements. As an example of nations and peoples fighting for their independence, we can cite the “Palestine Liberation Organization”. This organization was established with the aim of liberating Palestine and we evaluate it as a movement of the Palestinian people for the recognition of their independence. This state is an equal member of regional organizations. For example, Palestine is a member of the League of Arab States of the Organization of African Unity. The existence of such an opportunity plays a key role in obtaining observer status for the State of Palestine in other universal international organizations. Other examples of such organizations are

- 1-Algerian National Liberation
- 2-South African People's Organization
- 3- Angolan People's Liberation Movement
- 4-Mozambique Liberation Front

5- Palestine Liberation Organization.

Similar organizations were formed and nations and peoples fighting for their independence formed similar organizations in order to use the principle of self-determination. Among them, if we touch on the Algerian National Liberation Front, on November 1, 1954, an armed war began for the independence of Algeria (from France). There was very strong resistance from the French government for a long time. But Algeria at that time formed an independence front using the principle of self-determination. By the beginning of 1961, 20 countries had recognized the independence of Algeria. On January 8 of that year, a referendum was held to grant Algeria the right to self-determination. 75 percent of the voters sided with France, 70 percent with Algeria (the voters were 76 and 59 percent, respectively). MOF representatives boycotted the referendum. Such states have fought for self-determination as subjects of international law, and thus can be one of the main subjects in international law along with states.

In addition, we can cite the example of the Palestinian liberation movement, the Palestine Liberation Organization is recognized by many countries and international organizations as the representative of the Palestinian people.

List of used literature

Special literature

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2- International law. Textbook. Responsible editor, Ph.D., prof. G. Yuldasheva // Authors' team. – T.: TSYU Publishing House, 2017. – 443 p.

3- Lukashuk I.I., Saidov A.Kh., Fundamentals of the theory of international law: Textbook - T. «Sharq», 2004. - 330 p.

Foreign literature

Malcolm N. Shaw's "International law"

Electronic educational resources

<https://www.jstor.org>

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