

The Principle of Reciprocity in International Law: a Propelling Force in the Making and Observing of International Law?

Description for the General Public

Reciprocity is a natural and intrinsic element of every society. It has been omnipresent in primitive and semi-primitive societies as it has been supplanted by State and its measures in the course of civilization development. In a society so weakly and horizontally organized as the international community, with the lack of a centralized legislative and enforcement agency, reciprocity may play a vital role. First and foremost, reciprocity may be regarded as one of the basic principles governing the creation and performance of legal obligations.

Reciprocity has been perceived as the omnipresent aspect of international law. Reciprocity denotes a situation, which exists when a State ensures or promises other State and its representatives, nationals, trade etc. equal treatment or treatment equivalent to that which the latter State ensures or promises the former State. Also, reciprocity between States and in treaty clauses based on reciprocity is explained as the status of a relationship between two or more States under which a certain conduct by one party is in one way or another juridically dependent upon that of the other party.

Having above in mind, one may consider reciprocity in: (1) the creation of legal obligations, (2) their executions, and (3) as a sanction for non-performance. To this end, a number of issues may be discussed such as the creation of custom and treaty, the jurisdiction of international courts and tribunals, standards of treatment, the theory of international obligations, countermeasures, the principle of clean hands. Also, to attain a thorough and complete picture, certain important branches of international law must be covered by the research, including the nuclear disarmament, international economic law, human rights, international humanitarian law and use of nuclear weapons.

The issues related to the principle of reciprocity have been little explored and discussed as a distinct and independent problem of international law, whereas there is a strong necessity for clarifying the normative status and content of reciprocity. More importantly, the proposed research is necessary due to the discrepancy which exists while explaining the normative status of the principle of reciprocity. Therefore, the project will seek to examine the nature of the principle in question and identify its normative content.