

Emergence of International Organizations as Subject of International Law: A Critical Overview

Subham Kumar Sahu

PhD Research Scholar, Jawaharlal Nehru University, New Delhi

Abstract

The traditional structure of international law was founded upon the doctrine that sovereign states constituted the exclusive subjects of international law. Classical positivist scholars viewed states as the sole bearers of international rights and obligations, while other entities existed merely as objects regulated through state consent. The unprecedented expansion of international organizations during the twentieth century fundamentally altered this state-centric paradigm. The establishment of the United Nations, specialized agencies, regional organizations, and functional institutions generated a new category of actors exercising powers and responsibilities beyond the territorial confines of individual states. This development necessitated a reassessment of the concept of international legal personality and the recognition of international organizations as subjects of international law.

This article critically examines the emergence of international organizations as subjects of international law. It analyzes the historical evolution of legal personality, the jurisprudential foundations underlying the recognition of international organizations, and the transformative role played by international judicial decisions, particularly the Reparation for Injuries Advisory Opinion of 1949. The article further evaluates the extent and limitations of the legal personality enjoyed by international organizations, their rights and obligations under international law, issues relating to responsibility and accountability, and contemporary challenges arising from global governance. The study argues that while international organizations have acquired significant legal personality, their status remains derivative, functional, and constrained by the principle of attributed powers. The article concludes that the growing authority of international organizations requires a corresponding strengthening of accountability mechanisms to preserve legitimacy within the international legal order.

Keywords: International Organizations, International Legal Personality, Subjects of International Law, United Nations, Reparation for Injuries Case, Global Governance, International Responsibility, Functionalism, International Institutional Law.

I. Introduction

The emergence of international organizations as subjects of international law represents one of the most significant developments in modern international legal theory. For centuries, international law was conceived as a legal system exclusively governing relations among sovereign states. The classical international legal order reflected the political realities of the Westphalian system, wherein states possessed exclusive sovereignty and legal personality. Consequently, only states were regarded as capable of possessing rights, assuming obligations, and participating directly in the creation and enforcement of international norms.¹

The rapid proliferation of international organizations following the First and Second World Wars transformed this traditional understanding. International organizations increasingly became central actors in diplomacy, security, economic regulation, environmental governance, human rights protection, and humanitarian operations. Their growing influence challenged the conventional doctrine that only states could be subjects of international law.²

The emergence of institutions such as the United Nations, the International Labour Organization, the World Health Organization, the International Monetary Fund, and later regional organizations such as the European Union demonstrated that international cooperation could no longer be adequately explained through purely inter-state relations. These organizations acquired capacities that extended beyond the collective interests of their member states, thereby necessitating recognition of an independent legal status.³

The recognition of international organizations as subjects of international law raises several important theoretical and practical questions. Do international organizations possess legal personality independently of their member states? What rights and obligations arise from such personality? How should accountability be ensured when international organizations exercise public authority affecting individuals and states? To what extent can international organizations be held responsible for violations of international law?

This article addresses these questions through a critical examination of the historical, theoretical, and jurisprudential foundations of the legal personality of international organizations. It argues that the recognition of international organizations as subjects of international law reflects the adaptation of international law to the realities of global governance. However, the expansion of organizational powers must be accompanied by enhanced mechanisms of accountability to maintain the legitimacy of international institutions.

II. Historical Evolution of International Organizations

The concept of international organizations emerged gradually during the nineteenth century. Early examples included river commissions, postal unions, and administrative agencies established through treaties among states. These institutions were primarily technical bodies designed to facilitate cooperation in limited functional areas.⁴

One of the earliest examples was the Central Commission for Navigation on the Rhine, established in 1815. Similar institutions emerged to regulate international waterways, communications, and trade. Although these organizations performed important administrative functions, they were not generally considered independent subjects of international law. Their activities were viewed merely as extensions of state cooperation.⁵

The establishment of the International Telegraph Union in 1865 and the Universal Postal Union in 1874 represented significant advances in institutionalized international cooperation. These organizations developed permanent organs, administrative structures, and operational capacities. Nevertheless, they remained largely subordinate to the collective will of member states.⁶

The devastation of the First World War generated renewed interest in international institutionalism. The creation of the League of Nations in 1919 marked a historic departure from traditional diplomacy. Unlike previous administrative unions, the League possessed political objectives relating to collective security and international peace.⁷

Although the League ultimately failed to prevent global conflict, it established important precedents concerning the institutionalization of international governance. The League demonstrated that international organizations could exercise functions extending beyond technical administration and contribute to the development of international norms.⁸

The Second World War further accelerated the institutional transformation of international law. The adoption of the United Nations Charter in 1945 created a comprehensive international organization entrusted with maintaining peace and security, promoting human rights, fostering economic development, and facilitating international cooperation.⁹

The United Nations quickly became the centerpiece of the international legal system. Unlike earlier organizations, it exercised substantial authority through its principal organs, including the General Assembly, Security Council, International Court of Justice, Economic and Social Council, and Secretariat.¹⁰

The expansion of specialized agencies and regional organizations during the post-war period reinforced the institutionalization of international relations. International organizations became indispensable mechanisms for addressing increasingly complex global challenges. Consequently, international legal doctrine could no longer deny their independent legal significance.

III. The Concept of International Legal Personality

The concept of legal personality refers to the capacity of an entity to possess rights and obligations under a legal system and to act upon those rights through legal processes. In domestic legal systems, corporations, associations, and governmental entities may possess legal personality separate from their members.¹¹

In international law, legal personality traditionally belonged exclusively to sovereign states. This state-centric approach reflected positivist assumptions that international law derived solely from state consent. Since only states participated directly in law-making, only states could be regarded as subjects of international law.¹²

However, international law has never been entirely static. The recognition of individuals as bearers of international rights under human rights law and international criminal law demonstrated that legal personality could exist in varying degrees. Similarly, the emergence of international organizations challenged the exclusivity of state personality.¹³

The modern understanding of international legal personality is functional rather than absolute. An entity possesses legal personality to the extent necessary to perform its functions within the international legal order. Consequently, international organizations need not possess the same legal capacities as states to qualify as subjects of international law.¹⁴

This functional approach reflects the realities of contemporary international relations. International organizations negotiate treaties, maintain diplomatic relations, conclude agreements, enjoy privileges and immunities, bring international claims, and participate in dispute settlement mechanisms. Such capacities indicate the existence of legal personality distinct from that of member states.¹⁵

Importantly, international legal personality exists on a spectrum rather than as a binary concept. States continue to possess the fullest form of international personality. International organizations, by contrast, enjoy limited and specialized personality determined by their constituent instruments and functional requirements.¹⁶

The recognition of international organizations therefore does not undermine state sovereignty but rather reflects the diversification of actors within the international legal system. International law has evolved from a purely horizontal system of state relations into a more complex legal order involving multiple participants exercising varying degrees of legal capacity.

IV. Jurisprudential Foundations of Organizational Personality

The decisive moment in the recognition of international organizations as subjects of international law occurred through the Advisory Opinion delivered by the International Court of Justice in the *Reparation for Injuries Suffered in the Service of the United Nations* case in 1949.¹⁷

The dispute arose following the assassination of Count Folke Bernadotte, a United Nations mediator in Palestine. The question before the Court was whether the United Nations possessed the capacity to bring an international claim against a state responsible for injuries suffered by its officials.¹⁸

The United Nations Charter contained no explicit provision granting the organization international legal personality. Nevertheless, the Court concluded that the organization possessed objective international personality derived from its purposes and functions. The Court famously observed that the United Nations was

intended to exercise and enjoy functions and rights that could only be explained on the basis of a large measure of international personality.¹⁹

The Court rejected the argument that international personality could belong only to sovereign states. Instead, it emphasized that international law subjects are not necessarily identical in their nature or extent of rights. The requirements of international life had produced entities whose legal capacities differed from those of states but nonetheless constituted genuine subjects of international law.²⁰

The significance of the Reparation for Injuries opinion cannot be overstated. It established the doctrinal foundation for recognizing international organizations as independent legal actors. The opinion also introduced the principle of implied powers, according to which organizations possess powers necessary to fulfill their assigned functions even if such powers are not expressly stated in constituent instruments.²¹

The functional theory articulated by the Court subsequently influenced both academic scholarship and institutional practice. International organizations increasingly relied upon implied powers to justify actions necessary for fulfilling their mandates.²²

However, the Court's reasoning has not escaped criticism. Some scholars argue that the decision granted excessive autonomy to international organizations without establishing corresponding accountability mechanisms. Others contend that organizational personality remains dependent upon state consent and should therefore be viewed as derivative rather than autonomous.²³

Despite these debates, the Reparation for Injuries opinion remains the cornerstone of contemporary international institutional law and continues to shape discussions regarding the status and authority of international organizations.

V. Rights, Powers and Legal Capacities of International Organizations

Recognition as a subject of international law necessarily entails the possession of certain legal rights and capacities. Unlike sovereign states, however, international organizations do not possess inherent powers. Their authority is derived primarily from their constituent instruments and the functions entrusted to them by member states. Consequently, the legal capacities of international organizations are generally described as functional, attributed, and limited.

The doctrine of attributed powers constitutes one of the fundamental principles of international institutional law. According to this doctrine, an international organization may exercise only those powers conferred upon it by its constituent treaty or those powers necessarily implied from the effective discharge of its functions.¹⁴ The principle reflects the continuing importance of state sovereignty in the international legal order and prevents organizations from exercising unlimited authority.

One of the most significant manifestations of international legal personality is the capacity to conclude international agreements. Numerous international organizations possess treaty-making powers and regularly enter into agreements with states, other international organizations, and, in certain circumstances, non-state actors. The United Nations, for example, has concluded headquarters agreements, peacekeeping arrangements, status-of-forces agreements, and cooperation agreements with various entities.²⁴

The treaty-making capacity of international organizations received formal recognition in the 1986 Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations. Although the Convention has not entered fully into force, it reflects the widespread acceptance that international organizations may participate in treaty relations independently of their member states.²⁵

International organizations also enjoy privileges and immunities necessary for the performance of their functions. Such immunities are designed to protect organizational independence and prevent interference by

national authorities. The Convention on the Privileges and Immunities of the United Nations grants extensive immunities to the organization, its property, assets, and officials.²⁶

The justification for these immunities lies in functional necessity. International organizations frequently operate in politically sensitive environments and must remain insulated from unilateral state interference. Without such protections, organizations could become vulnerable to political pressure from host states or powerful member states.²⁷

Another important aspect of organizational personality is the capacity to present international claims. The Reparation for Injuries Advisory Opinion established that the United Nations could bring claims against states for injuries suffered by its agents. This capacity demonstrates that organizations possess legal interests separate from those of their member states.²⁸

International organizations also participate in dispute settlement procedures. Many organizations possess standing before international tribunals, arbitration bodies, or administrative courts. The existence of such procedural capacities further reinforces their status as subjects of international law.²⁹

In recent decades, some organizations have acquired extensive regulatory authority. The World Health Organization influences global health governance, the International Civil Aviation Organization establishes aviation standards, and the International Maritime Organization develops rules governing maritime navigation. These activities illustrate the increasingly normative role played by international organizations in contemporary international law.³⁰

Perhaps the most remarkable example is the European Union, whose legal order possesses characteristics traditionally associated with sovereign authority. Through the jurisprudence of the Court of Justice of the European Union, European Union law has developed doctrines of supremacy and direct effect that transcend conventional models of international cooperation.³¹

The expansion of organizational authority has led some scholars to argue that international organizations have evolved from instruments of state cooperation into autonomous actors exercising forms of global public authority. Others remain skeptical, emphasizing that organizations ultimately derive their legitimacy from state consent and remain constrained by the powers attributed to them.³²

This tension between autonomy and dependence remains central to contemporary debates concerning the legal status of international organizations.

VI. International Responsibility of International Organizations

As international organizations acquire rights and powers, questions inevitably arise concerning their responsibility for internationally wrongful conduct. The recognition of legal personality would be incomplete if organizations could enjoy rights without corresponding legal obligations.

Historically, international responsibility focused almost exclusively upon states. Classical international law lacked a coherent framework for addressing wrongful conduct attributable to international organizations. The rapid expansion of organizational activities during the twentieth century exposed this normative gap.³³

International organizations now participate in peacekeeping operations, humanitarian interventions, financial assistance programs, sanctions regimes, refugee administration, and environmental governance. These activities can significantly affect states, individuals, and communities. Consequently, accountability for wrongful conduct has become an increasingly important concern.

The International Law Commission sought to address this issue through the adoption of the Draft Articles on the Responsibility of International Organizations (DARIO) in 2011.³⁴ The Draft Articles largely mirror the framework established for state responsibility while adapting its principles to the institutional context.

According to the Draft Articles, an international organization incurs responsibility when conduct attributable to the organization constitutes a breach of an international obligation.³⁵ Attribution may arise through the actions of organizational organs, officials, agents, or entities acting under organizational control.

One of the most controversial questions concerns peacekeeping operations. United Nations peacekeeping missions often involve military contingents provided by member states while operating under United Nations mandates. Determining whether wrongful conduct should be attributed to the contributing state, the United Nations, or both has generated substantial legal controversy.³⁶

The issue became particularly prominent following allegations of human rights violations committed during peacekeeping operations in various conflict zones. Courts and scholars have struggled to determine the appropriate allocation of responsibility between international organizations and member states.³⁷

The doctrine of effective control has emerged as an important criterion in attribution disputes. Under this approach, responsibility depends upon which actor exercised effective control over the conduct in question. However, practical application of this doctrine remains complex, particularly in situations involving shared authority and multiple chains of command.³⁸

The outbreak of cholera in Haiti following the deployment of United Nations peacekeepers generated one of the most significant accountability controversies in recent history. Scientific investigations linked the epidemic to peacekeeping personnel, yet victims encountered substantial obstacles in seeking legal remedies due to organizational immunity.³⁹

The Haiti controversy exposed a fundamental tension between immunity and accountability. While immunity protects organizational independence, excessive immunity may undermine the rule of law and deny effective remedies to victims of wrongful conduct.⁴⁰

The challenge is therefore not merely doctrinal but normative. As international organizations exercise increasing authority over matters affecting human welfare, expectations regarding accountability and transparency continue to grow. The legitimacy of international institutions increasingly depends upon their willingness to accept responsibility for the consequences of their actions.

VII. Accountability, Immunity and the Legitimacy Crisis

The growing authority of international organizations has generated an extensive scholarly debate regarding accountability deficits within global governance. Critics argue that international organizations frequently exercise significant public power without being subject to democratic controls comparable to those operating within domestic legal systems.⁴¹

The accountability problem arises from the unique position occupied by international organizations. Unlike states, they are not directly accountable to electorates. Unlike private corporations, they frequently enjoy extensive legal immunities. Consequently, traditional mechanisms of legal and political accountability often prove inadequate.

The doctrine of immunity occupies a central place in this debate. Most international organizations enjoy broad immunity from national jurisdiction. Such immunity is generally justified on functional grounds and is intended to preserve organizational independence.⁴²

However, immunity can create situations in which individuals affected by organizational conduct are unable to obtain legal remedies. This concern has become particularly acute in cases involving employment disputes, human rights violations, environmental harm, and peacekeeping operations.⁴³

Several national and regional courts have grappled with the tension between immunity and access to justice. The jurisprudence of the European Court of Human Rights illustrates attempts to balance organizational independence with fundamental rights protections.⁴⁴

Scholars increasingly question whether absolute immunity remains justified in contemporary circumstances. Some advocate a restrictive approach that would preserve immunity for core institutional functions while permitting judicial review in cases involving serious rights violations.⁴⁵

Others propose alternative accountability mechanisms, including independent oversight bodies, administrative tribunals, inspection panels, ombudsperson institutions, and enhanced transparency procedures. The World Bank Inspection Panel, for example, represents an innovative attempt to provide accountability without undermining institutional independence.⁴⁶

The broader debate reflects a transformation in the nature of international organizations. As organizations increasingly influence domestic policies, regulate economic activity, and affect individual rights, demands for legitimacy and accountability become more pressing.⁴⁷

The challenge facing international law is therefore to reconcile two competing objectives: preserving the functional independence necessary for effective international cooperation while ensuring adequate mechanisms of responsibility and oversight.

VIII. Critical Evaluation: Are International Organizations Truly Subjects of International Law?

Although the legal personality of international organizations is widely accepted today, important theoretical debates remain unresolved. One central question concerns whether organizations possess genuinely independent legal personality or merely derivative personality delegated by states.

Supporters of the traditional functionalist approach argue that organizations possess objective legal personality because international law itself recognizes their existence and capacities. The International Court of Justice appeared to endorse this view in the *Reparation for Injuries Opinion* by emphasizing that personality depends upon the requirements of international life rather than exclusively upon state consent.⁴⁸

From this perspective, international organizations have become indispensable participants in international relations. Their legal personality reflects practical necessity rather than theoretical abstraction. Modern international law would be incapable of addressing global challenges without institutional actors capable of coordinating collective action.⁴⁹

Critics, however, maintain that organizational personality remains fundamentally derivative. International organizations exist only because states create them through treaties. Their powers, resources, and legitimacy ultimately depend upon member state consent. Consequently, organizations cannot be regarded as fully autonomous subjects comparable to sovereign states.⁵⁰

This critique highlights the continuing dominance of states within the international legal order. States create organizations, define their mandates, finance their operations, and retain authority to amend or terminate constituent instruments. Organizational autonomy therefore remains inherently limited.⁵¹

A related criticism concerns democratic legitimacy. International organizations frequently exercise authority affecting millions of individuals who have little opportunity to influence institutional decision-making processes. This democratic deficit raises questions concerning the legitimacy of expanding organizational powers.⁵²

Nevertheless, the reality of contemporary global governance suggests that international organizations have become permanent and influential actors within international law. While their personality may differ from that of states, it is sufficiently distinct and substantial to justify recognition as subjects of international law.

The more compelling question today is not whether international organizations possess legal personality but rather how that personality should be regulated, constrained, and held accountable in an increasingly interconnected world.

IX. Contemporary Challenges and the Future of International Organizational Personality

The twenty-first century has witnessed an unprecedented expansion in the authority and influence of international organizations. Contemporary global challenges—including climate change, international terrorism, pandemics, cyber governance, artificial intelligence, migration crises, and transnational economic instability—cannot be effectively addressed by individual states acting alone. Consequently, international organizations have assumed increasingly significant roles in policy coordination, norm development, and global governance.

One of the most important developments has been the growing role of international organizations in environmental governance. Institutions operating under the framework of the United Nations have become central actors in addressing climate change and sustainable development. The adoption of the Paris Agreement and the implementation of the Sustainable Development Goals demonstrate how international organizations shape global regulatory agendas despite lacking traditional sovereign powers.⁵³

Similarly, the COVID-19 pandemic highlighted both the importance and limitations of international organizations. The World Health Organization emerged as the primary institution responsible for coordinating international responses to the global health emergency. At the same time, criticisms regarding transparency, effectiveness, and political influence exposed structural weaknesses within contemporary systems of international governance.⁵⁴

The increasing regulation of cyberspace presents another challenge to traditional theories of international legal personality. International organizations are becoming involved in the development of cyber norms, digital governance frameworks, and standards relating to artificial intelligence. These emerging areas of regulation demonstrate that international organizations are no longer confined to administrative or technical functions but are increasingly involved in shaping normative frameworks that influence domestic legal systems.⁵⁵

Artificial intelligence governance presents a particularly significant challenge. As states struggle to develop coherent regulatory responses to rapidly evolving technologies, international organizations may become central actors in establishing common standards and ethical principles. Such developments could further expand organizational authority and reinforce their status as independent participants within the international legal order.⁵⁶

At the same time, the growth of international organizations has generated concerns regarding institutional fragmentation. The proliferation of specialized organizations has produced overlapping mandates, competing jurisdictions, and inconsistent regulatory approaches. Some scholars argue that this fragmentation undermines coherence within international law and complicates efforts to ensure accountability.⁵⁷

Another important challenge concerns the relationship between international organizations and state sovereignty. While organizations increasingly exercise regulatory authority, states remain the primary creators and guardians of international law. Tensions frequently arise when organizational decisions are perceived as interfering with domestic policy choices or national constitutional structures. Such tensions are evident in

debates concerning international financial institutions, human rights monitoring mechanisms, and regional integration projects.⁵⁸

The future development of international organizational personality is therefore likely to be shaped by competing pressures. On one hand, globalization requires stronger international institutions capable of addressing collective problems. On the other hand, concerns regarding sovereignty, accountability, and democratic legitimacy continue to constrain institutional expansion.

These developments suggest that international organizations will remain central actors in international law while simultaneously facing increasing demands for transparency, accountability, and institutional reform.

X. Scholarly Observations

Several observations emerge from the foregoing analysis.

First, the emergence of international organizations as subjects of international law represents one of the most significant transformations in the history of the international legal system. The traditional state-centric model has evolved into a more complex framework involving multiple actors possessing varying degrees of legal personality.

Second, the recognition of organizational personality has been driven primarily by functional necessity rather than theoretical innovation. International organizations acquired legal personality because effective performance of their functions required independent legal capacities. The jurisprudence of the International Court of Justice confirms that international law adapts to practical realities rather than remaining confined to rigid conceptual categories.

Third, organizational personality remains fundamentally different from state personality. States continue to possess the fullest range of international rights and obligations. International organizations possess only those powers necessary to achieve their institutional objectives. Consequently, organizational personality is best understood as functional, specialized, and limited rather than sovereign or comprehensive.

Fourth, the expansion of organizational authority has outpaced the development of corresponding accountability mechanisms. International organizations increasingly exercise forms of public authority affecting individuals, communities, and states. Yet legal remedies for wrongful conduct often remain inadequate due to broad immunities and institutional barriers. This accountability deficit represents one of the most significant challenges facing contemporary international law.

Fifth, debates concerning the autonomy of international organizations should not obscure the continuing importance of states. International organizations derive their authority from constituent treaties concluded by sovereign states. Although organizations enjoy independent legal personality, their legitimacy ultimately depends upon the continuing support and consent of member states.

Sixth, the future of international organizational law will likely depend upon achieving an appropriate balance between effectiveness and accountability. International organizations require sufficient autonomy to address global challenges, but such autonomy must be accompanied by mechanisms ensuring transparency, responsibility, and respect for fundamental legal principles.

Finally, the emergence of international organizations illustrates the adaptive character of international law itself. The recognition of new subjects demonstrates the capacity of international law to evolve in response to changing political, economic, and social realities. This adaptability remains essential in an increasingly interconnected world characterized by challenges that transcend national boundaries.

XI. Conclusion

The emergence of international organizations as subjects of international law constitutes one of the defining developments of modern international legal history. The traditional conception of international law as a system governing exclusively inter-state relations has gradually given way to a more sophisticated legal order involving diverse actors possessing varying degrees of legal personality.

The recognition of international organizations was neither sudden nor accidental. It resulted from the increasing complexity of international relations and the growing necessity for institutionalized cooperation. Beginning with nineteenth-century administrative unions and culminating in the establishment of the United Nations and numerous specialized agencies, international organizations evolved into indispensable mechanisms of global governance.

The Advisory Opinion of the International Court of Justice in the *Reparation for Injuries* case provided the jurisprudential foundation for recognizing organizational personality. By affirming that international organizations possess rights and duties distinct from those of their member states, the Court fundamentally reshaped the doctrine of subjects of international law.

Nevertheless, organizational personality remains functionally limited and derivative in nature. Unlike states, international organizations do not possess inherent sovereignty. Their powers originate from constituent treaties and are confined by the principle of attributed powers. Consequently, while international organizations are undoubtedly subjects of international law, they occupy a distinct category characterized by specialized legal capacities.

The contemporary significance of international organizations cannot be overstated. They play central roles in maintaining international peace and security, promoting economic development, protecting human rights, addressing climate change, coordinating public health responses, and regulating emerging technologies. Their influence extends far beyond the traditional sphere of intergovernmental cooperation.

However, the expansion of organizational authority has generated serious concerns regarding accountability and legitimacy. Broad immunities, limited judicial oversight, and inadequate remedies for affected individuals have created an accountability deficit that threatens public confidence in international institutions. Future developments in international organizational law must therefore focus on strengthening mechanisms of responsibility while preserving the independence necessary for effective international cooperation.

Ultimately, the emergence of international organizations as subjects of international law demonstrates the dynamic and evolving nature of the international legal system. As global challenges become increasingly complex and interconnected, international organizations will continue to play a vital role in shaping the future development of international law. Their legitimacy, however, will depend not merely upon the recognition of legal personality but upon their capacity to exercise authority responsibly, transparently, and in accordance with the rule of law.

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