ICJ JUDGES AS INTERNATIONAL NORM MAKES: THE ROLE OF JUDGE MOHAMMED BEDJAOUI

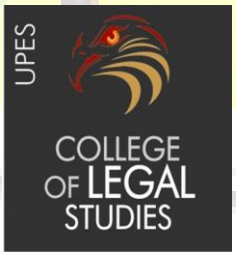
Name of the Candidate

SAIF SIDDIQUI

Submitted under the guidance of: Dr./Prof. Name of the Supervisor/s

SREJEET THUMPI

This dissertation is submitted in partial fulfillment of the degree of B.A., LL.B. (Hons.)/B.B.A., LL.B. (Hons)



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CERTIFICATE

This is to certify that the research work entitled **"ICJ JUDGES AS INTERNATIONAL NORM MAKES: THE ROLE OF JUDGE MOHAMMED BEDJAOUI"** is the work done by **SAIF SIDDIQUI** under my guidance and supervision for the partial fulfillment of the requirement of B.A., LL.B. (Hons.)/B.B.A., LL.B. (Hons) degree at College of Legal Studies, University of Petroleum and Energy Studies, Dehradun.

Signature & Name of Supervisor

Designation

Date

DECLARATION

I declare that the dissertation entitled **"ICJ JUDGES AS INTERNATIONAL NORM MAKES: THE ROLE OF JUDGE MOHAMMED BEDJAOUI"** is the outcome of my own work conducted under the supervision of Dr./Prof. **SREJEET THUMPI**, at College of Legal Studies, University of Petroleum and Energy Studies, Dehradun.

I declare that the dissertation comprises only of my original work and due acknowledgement has been made in the text to all other material used.

Signature & Name of Student

SAIF SIDDIQUI

Date

TABLE OF CASES

1. LA GRANDE CASE (F.R.G VS. US) , 40 I.L.M. 1069 (JUNE 27,2001) , VIENNA CONVENTION OF CONSULAR RELATIONS(PARA VS. US), 1998 I.C.J 248 (APR.9).

LIST OF ABBREVATIONS

1. ICJ- International Court of Justice

2. UNHRC- United Nation Human Right Commission

3. UN- United Nations

4. ICC- International Criminal Court

5. UNGC- United Nations Convention on Genocide

6. UNTC- United Nations Treatise Collection

7. All. E.R. - All England Law Reports

8. All. E.R. (D) - All England Law Repots Digest

9. NIEO- New International Economic Order.

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INTRODUCTION

The dissertation is going to look into the works of ICJ judges in formulation international law. A unique approach has been opted where contribution of the judges from the third countries has been looked into. Another unique aspect of this dissertation will be the semi biographical approach opted as the research methodology. The chapterisation have been wide spread and are going to look into the aspects such as NIEO program, and the nuclear judgments have been looked into. The emphasis on Mohammed Bedjaoui contribution where parts of his life in which he has served as the president of the ICJ and other notable time were deeply looked into and researched upon although this dissertation does not entirely looks into the merits but also in the demerits, short coming and other draw backs of Bedjaoui contribution. The scope of article 38(1) (d) the contribution of the Third world in the NIEO program certain aspects of Bedjaoui life and his achievements are a few thing which are being looked into his writings.

1. INTRODUCTION OF INTERNATIONAL LAW AND ITS DEVELOPMENT

International law may be characterized as that part or collection of law for its most vital part that is its standards and principles of behavior which states feel themselves bound to watch and in this way, do ordinarily take after min their relations with one another, and which incorporates additionally :-

a. THE RULES OF LAW RELATING TO THE FUNCTIONING OF INTERNATIONAL INSTITUTIONS OR ORGANIZATIONS, THEIR RELATIONS WITH EACH OTHER, AND THEIR RELATIONS WITH STATES AND INDIVIDUALS.

b. CERTAIN RULES OF LAW RELATING TO INDIVIDUALS AND NON-STATE ENTITIES SO FAR AS THE RIGHTS OR DUTIES OF SUCH INDIVIDUALS AND NON-STATE ENTITIES ARE THE CONCERN OF THE INTERNATIONAL COMMUNITY.

It is well to recollect that global law is fundamentally a framework controlling the rights and obligations of states entomb se. So much is implied at in the very title "universal law", or in another title oftentimes given to the subject 'the law countries', albeit entirely talking "country" is just in a rough manner an equivalent word for the word 'state'. For sure, it is a decent commonsense working principle to view worldwide law as mostly made out of standards whereby certain rights have a place with, or certain obligations are forced upon, states.

The essential object of global law has been to convey an asked for instead of a reasonable course of action of overall relations, yet in later upgrades (for occasion, in the principles as to state commitment concerning dispute of value, and in the benchmarks and practice as to widespread mediation) there has been affirmation of some trying to ensure that, impartially, value be completed between states.

The front line plan of overall law is a thing, by and large talking, of simply the last four hundred years. It created to some degree out of the usages and practices of current European states in their intercourse and trades, while in any case it gives affirmation in regards to the effect of writers and legitimate counselors of sixteenth, seventeenth, and eighteenth several years, who at first structured some of its most vital standards. Furthermore, it stays tinged with thoughts, for instance, national and local influence, and the perfect value and flexibility of state system, though, curiously enough, some of these thoughts have charged the support of as of late grew non-European states.

Regardless any recorded record of the structure must begin with soonest times, for even in the time of days of yore rules of the conduct to direct the relations between self-sufficient gatherings were fondled essential and rose out of employments saw by these gatherings in their normal relations. Courses of action, the immunities of delegates, and certain laws and employments of war are to be found various several years prior to the start of Christianity.

Critical changes bounced out at overall laws in the fifteenth and sixteenth many years. A basic reality similarly was that at this point law authority started to consider about the advancement of a gathering of free sovereign states and to ponder various issues of the laws of nations, comprehension the requirement for some accumulation of standards to deal with specific parts of the relations between such states. Where there were no settled standard standards, these legitimate researcher were obliged to devise and style working measures by speculation and relationship. Among the early writers who made discriminating responsibilities to the infant kid examination of the law of nations were Vittoria (1480-1546), who was an educator of religious reasoning in the University of

Salamanca, Belli(1520-1575), an Italian, Brunus (1491-1563), a German and various more writers were accountable for the progression of nature of overall law on the planet. The works of these early legitimate researchers uncover in a broad sense that one significant diversion of sixteenth century all inclusive law was the law of battling amidst states, and in this affiliation it may be recognized that by the fifteenth century the European powers had begun to keep up standing military, a practice which routinely brought on uniform uses and practices of war to create. By general attestation the best of the early columnists on global law was the Dutch scientists, legitimate researcher, and arbitrator, Grotius (1583-1645), whose purposeful treatise on the subject by law belli air conditioning pacis (the law of war and peace) at first appeared in 1625. The effect of these amazing legitimate researchers on the progression of overall law was noteworthy, as can be seen from their normal reference by national courts in the nineteenth century is still cleaned till now in the present time.

In the nineteenth century universal law further developed. This was a direct result of different components which fall more properly inside the degree of genuine studies, for cases, the further rising of extraordinary states both inside and outside Europe, expansion of European advancement abroad, and the modernization of world transport, the more unmistakable risk of current battling and the effect of new advancements. All these made it desperate for worldwide society of states to acclimate to another plan of gauges that would be valuable in authentic organization moreover would help in fitting conduction of widespread endeavors which are of especially marvelous essentialness. This further provoked game plan of unchanging court of caution by Hague Conference of 1899 and of 1907, which further came to be known as the International Court of Justice.

The present day status of global law is that today this law is considered as the fundamental assortment of guidelines directing generally the relations between the states, without which it would be exceptionally extreme between two separate states to have great relations and to comprehend a matter calmly with no damage to anybody one them. As it is said particle the unlucky deficiency of these laws it would have been exceptionally troublesome, a real commitments to the structure of this framework and the

improvements of different laws in this were carried out by the diverse law specialists who with the utilization of their created sense and feeling of law aided in simple improvement of the laws. There were numerous circumstances in which there was no law to represent yet it were these legal advisers which prompted advancement of different new laws which prompted fathoming a matter in the event of question between the two states effortlessly.

Worldwide law has risen up out of a push to manage clash among states, since standards give request and help to relieve dangerous clash. It is created in various ways. First and foremost, law frequently leaves global understandings and arrangements between states. Bargains are the most vital wellspring of worldwide law furthermore serve as the sources of IGOs, which thusly are critical wellsprings of law. Second, standard practices that have advanced over the long haul regularly get to be classified in law. Third, general lawful standards that are regular to a critical number of states can get to be a piece of the corpus of global law. At last, law emerges from the group of worldwide legitimate researchers. Especially on more specialized issues, their mastery is regularly acknowledged by political pioneers.

The presence of law, on the other hand, does not imply that contention is any simpler to determine. Rather, as law gets to be more expand and compelling, it gets to be progressively hostile. The capable don't wish to be compelled in their capacity to react to dangers. In the meantime, creating nations see quite a bit of global law as being created generally without their info, essentially because of the purported popularity based shortfall in intergovernmental associations which now are commonly the arranging venues for the production of new law.

1.1 ICJ- ITS FORMATION AND DEVELOPMENT

The scene of war in September 1939 inescapably had credible results for the PCIJ, which had beginning now for two or three years known a time of lessened improvement. After its keep going open sitting on 4 December 1939, the Permanent Court of International Justice did dealt with any cases or any legal business and no further choices of judges were held. In 1940 the Court cleared to Geneva, a solitary judge staying at The Hague, together with a couple Registry forces of Dutch nationality. It was unavoidable that even under the uneasiness of the war some idea ought to be given to the inexorable fate of the Court, and to the improvement of another overall political bid. Yet it was understood that some or following couple of days there will develop a prerequisite for plan of new court which would be better in limit. The essential clarifications behind improvement of these courts were:-

1. As the court was to be the key authentic organ of the United Nations, it was felt abominable for this part to be filled by the Permanent Court of International Justice, which had up until then been connected with the League of Nations, then on the inspiration driving separating;

2. the game plan of another court was all the more predictable with the securing in the Charter that all Member States of the United Nations would ipso facto be social issues to the court's Statute;

3. a couple of States that were social occasions to the Statute of the PCIJ were not identifies with at the San Francisco Conference, and, of course, a few States which were addressed at the Conference were not get-togethers to the Statute;

4. There was an inclination in a few quarters that the PCIJ structured bit of a more arranged requesting, in which European States had ruled the political and bona fide attempts of the broad social occasion, and that the making of another court would

make it less asking for States outside Europe to acknowledge an all the more extreme part. This has truly happened as the selection of the United Nations made from 51 in 1945 to 192 in 2006.

As considered by the ICJ there are various sources that this court takes as the reference truly coming to fruition of new law yet sentiment juris has been considered as a crucial bit of this, a wealth of state practice does not by and large pass on with it a supposition that opinio juris exists. "Not simply the exhibits concerned mean a settled practice, yet they ought to moreover be such, or be carried out in such a course, as to be verification of a conviction that this practice is rendered required by the vicinity of a principle of law obliging it."

In circumstances where practice (of which confirmation is given) incorporates abstentions from acting, consistency of conduct may not secure the vicinity of a standard of standard overall law. The way that no nuclear weapons have been used resulting to 1945, for example, does not render their usage unlawful on the reason of a standard duty in light of the way that the key opinio juris was insufficient.

Notwithstanding the way that the ICJ has as frequently as could be expected under the circumstances insinuated opinio juris much the same as a comparable equalization with state sharpen, the some piece of the mental segment really taking shape of standard law is unverifiable.

This brought about arrangement of the International Court of Justice which emerged to be preferred and more majority rule court over the lasting court of universal assertion. Different changes occurred in the development of law like another would be framed with the recommendations and help of different scholarly law specialist who in the present time in charge of the arrangement of different laws in circumstances where there were no laws and it was a result of these legal scholar that these laws started to be. The International Court of Justice (ICJ),

the key legal organ of the United Nations, assumed a huge part in the dynamic advancement of worldwide law.

1.2 NORM FORMATION IN INTERNATIONAL LAW, SCOPE OF ARTICLE 38(1) (D) AND THE SCOPE FOR JUDGES THERE IN:-

Beginning with what essentially article 38(1)(d) discussions about, it says "The Court, whose capacity is to choose as per global law such question as are submitted to it, might apply:

A. worldwide traditions, whether general or specific, creating guidelines explicitly perceived by the challenging states;

B. universal custom, as proof of a general practice acknowledged as law;

C. the general standards of law perceived by acculturated countries; d. subject to the procurements of Article 59, [.e. that just the gatherings bound by the choice in any specific case,] legal choices and the teachings of the most profoundly qualified marketing experts of the different countries, as auxiliary means for the determination of guidelines of law.

In the past Article 38(1) (d) of the Statute of the International Court of Justice (ICJ Statute) might not have exhibited any exceptional trouble of understanding, that view is not for the most part imparted today.

Right when picking cases, the Court applies overall law as compacted in article 38 of the, ICJ statute which gives that in meeting up its decisions the Court ought to apply widespread customs, worldwide custom, and the "general principles of law saw by standardized nations". It may in like manner imply insightful composed work ("the teachings of the most significantly qualified showcasing specialists of the distinctive nations") and past lawful decisions to help decipher the law, in spite of the way that the Court is not formally bound by its past decisions under the tradition of look decision. Article 59 makes pass that the typical law considered perspective or look decisis does not make a difference to the decisions of the ICJ. The Court's decision binds simply the get-togethers to that particular verbal confrontation. Under 38(1)(d), regardless, the Court may consider its own particular past decisions.

If the social affairs agree, they may in like manner permit the Court the flexibility to pick ex aequo et bono ("in value and conventionality"), permitting the ICJ the chance to settle on a fair decision in perspective of what is sensible considering the current circumstance

Alternate point of view centers have been progressed on the right piece of lawful decisions (and, to a lesser degree, teachings of the most exceedingly qualified showcasing specialists) in the setting of prudent exchanges on wellsprings of widespread law. This article offers an explanation of Article 38(1) (d) of the ICJ Statute in perspective of the formal declarations of the overall criminal courts and tribunals. The article researches the significance of the statement 'as reinforcement means for the determination of standards of law' in Article 38(1) (d) of the ICJ Statute and takes the point of view that "determination" contains: (1) an affirmation of the vicinity and state of principles of law; and (2) a check of the right interpretation of rules of law (the 'affirmation process'). It holds that the ability "reinforcement" is not arranged just to mean that legitimate decisions can't be concurred the status of sources, rather, this term serves to

qualify the routines in association with the court or tribunal undertaking the determination. It comes back to consider which lawful decisions are suitably envisioned in Article 38(1) (d) of the ICJ Statute, considering the occurrence of legitimate decisions connected with law-production approaches and lawful decisions joined with national law. Finally, in spite of the way that this sub-entry treats legitimate decisions and teachings of advertising specialists so to talk at the same time, the article takes the viewpoint that a technique which fails to make note of the more direct impact of lawful decisions should be kept up a vital separation from.

Right when the trailblazer to Article 38(1)(d) of the ICJ Statute was being drafted by the 1920 Advisory Committee of Jurists, President Descamps proposed a substance which read :

"General law as a techniques for the application and headway of law".

This explanation is not by any techniques free from unsteadiness, in light of the way that it in the meantime utilizes the words "application" and 'movement'. The past incorporates a reference to beginning now, on the other hand, the records of the regular dispute on genuine choices inside the Advisory Committee obviously display that its kin did not consider such choices as a wellspring of general law in the right feeling of that term. In answer to a request by Ricci-Busatti, President Descamps communicated unequivocally that '[d]octrine and statute surely don't make law; in any case they help in choosing rules which exist. A judge should make usage of both law and statute, on the other hand they should simply serve as clarification.'

While this declaration by Descamps discounted instability as to his conclusion, it didn't completely satisfy Ricci-Busatti. Gone up against with moved ahead with resistance, Descamps finally suggested, as a deal, the going hand in hand with wording, "THE COURT SHALL TAKE INTO CONSIDERATION JUDICIAL DECISIONS AND THE TEACHINGS OF THE MOST HIGHLY QUALIFIED PUBLICISTS OF THE VARIOUS NATIONS AS A SUBSIDIARY MEANS FOR THE DETERMINATION OF RULES OF LAW".

A review of the written work shows broad contrast over the best conceivable comprehension of Article 38(1) of the ICJ Statute. One viewpoint is that that Article, essentially, sets out one, overall summary of wellsprings of widespread law. From this perspective, the legitimate decisions suggested in sub-area (d) may constitute as much a wellspring of law as any of exchange sources recorded in sub-areas (a) to (c) of Article 38(1). Jennings, for event, expresses that, 'I SEE THE LANGUAGE OF ARTICLE 38 AS ESSENTIAL IN PRINCIPLE AND SEE NO GREAT DIFFICULTY IN SEEING A SUBSIDIARY MEANS FOR THE DETERMINATION OF RULES OF LAW AS BEING A SOURCE OF THE LAW, NOT MERELY BY ANALOGY BUT DIRECTLY' .

Another point of view, in any case, is that Article 38(1) of the ICJ Statute secures two unmistakable records. Starting here of perspective, the first once-over (sub-entries (a) to (c)) sets down exhaustively the formal sources from which really considerable measures of worldwide law may rise. The second once-over (sub-section (d)) sets out a part of the techniques by which such benchmarks of law may be bound and determined. One of the essential supporters of this viewpoint, when further read it is obviously exhibited that the sub procurements deals with two different issues. Sub-stipulation (a)–(c) are concerned with the group of the standards of widespread law. In sub-condition (d), a rate of the techniques for the determination of charged standards of worldwide law are recognized.

Article 38(l)(d) of the ICJ Statute implies 'lawful decisions' in wide and unfit terms. While it is generally recognized that this reference covers a sweeping extent of lawful decisions, an overview of the written work shows huge uniqueness over which legitimate decisions are properly pictured by this sub-area. For instance, a couple of spectators hold that the reference to 'lawful decisions' in Article 38(1)(d) of the ICJ Statute fuses legitimate decisions used as affirmations of standard all inclusive law. This position is, in any case, not bestowed by others.

It is exceptional that legitimate decisions, particularly national ones, can play an earnest limit as affirmations of standard overall law. The Permanent Court of International Justice considered national legitimate decisions as 'convictions which express the will and constitute the activities of States'. Far reaching parts of standard worldwide law have been made according to the demonstration of the legitimate decisions of national courts.

As we know, a couple of forces have regarded lawful decisions used consequently as falling inside the degree of Article 38(1) (d) of the ICJ Statute. In any case, legitimate decisions used as affirmations of standard widespread law are more by and by connected with the law-production strategies, and their idea under Article 38(1) (d) perils muddying the refinement between law-production methodology and law-choosing orgs. Taking all things into account, they are more appropriately saw as under Article 38(1) (b), rather than Article 38(1)(d).The same intuition applies to all lawful decisions used as material wellsprings of standards of widespread law, for instance, legitimate decisions used as a piece of perceiving (or invalidating) general gauges of law. It is these legitimate decisions which are basically used as a piece of improvement of new laws.

As analyzed above we can see that a huge part has been played by the juristic people being created of the all inclusive law and this occurred improvement of new laws and also incited change in comprehension of article 38(1) (d) of the overall law. Before it was said that the inclination of juristic people were just considered as the direction however now the world we live in is distinctive now and this achieved use of those instruct as a part with respect to game plan of new law

Presently examining around a real commitment of Herbert Lionel Adolphus Hart (1907-92), he was a massive champion of cutting edge Anglo-English lawful hypothesis. Legitimate positivism, of which Hart was the significant defender, has been differently advanced and fundamentally refined in numerous regards and by numerous adherents. In any case in the meantime legitimate positivism shows indications of an intemperate pluralism and a hypothetical

fracture of nitty gritty investigations, so much that nothing we can say in regards to lawful positivism as a rule can be consented to by all positivists. Comprehensive positivists contrast with the exclusives, and inside every camp they vary with one another on the reasons why the inverse camp isn't right . On the other hand, Hart's shadow drifts over these differences and his hypothesis stays by a long shot the most fascinating and inside predictable form of legitimate positivism. This is the reason we have to backtrack at Hart's works and investigate his experiences about law, legitimate hypothesis and the idea of equity.

1.3 CONTRIBUTIONS OF DIFFERENT JURISTIC PERSONS FROM DIFFERENT COUNTRIES TO INTERNATIONAL LAW:-

1.3.1 INDIAN CONTRIBUTION TO INTERNATIONAL LAW

Indian contribution to the field of International Law has been immense. India has produced several lawyers, jurists and intellectuals who have played an important role in the fight against colonialism, apartheid and global economic inequality as also in providing a developing world perspective to the discourse of International Law and Human Rights. Contribution of some of these Indian legal luminaries are highlighted in this photo feature.

B. N. RAU (1887 –1953)

Sir Benegal Narsing Rau, was an Indian civil servant, jurist, diplomat and statesman known for his key role in drafting the Constitution of India. He has the distinction of being the First Permanent Judge of the International Court of Justice in The Hague, which is the principal judicial organ of the United Nations (UN).

NAGENDRA SINGH (1914 -1988)

Nagendra Singh was a member of the royal family of Dungarpur in Rajasthan and a career bureaucrat. He made a mark by being the First Indian to be the President of the International Court of Justice from the year 1985 to 1988. He also served on the United Nations International Law Commission and was appointed representative in UNO assembly thrice.

RAGHUNANDAN SWARUP PATHAK (1924 – 2007)

Justice Raghunandan Swarup Pathak, (R. S. Pathak) the 18th Chief Justice of India, was elected as a Permanent judge of the International Court of Justice and served in that position from 1989 to 1991.

DALVEER BHANDARI (1947)

Justice Dalveer Bhandari, was a sitting judge of the Supreme Court of India, when elected as a Permanent Judge of the International Court of Justice (ICJ) in 2012 and will serve until 2018.

PEMMARAJU SREENIVASA RAO (1942)

Apart from the permanent judges in the ICJ, several Indians have been appointed as ad hoc judges in specific disputes. For example Dr. P. S. Rao who was appointed by Singapore in the Pedra Branca dispute (1979), a territorial dispute between Malaysia and Singapore. Since 2010, P.S Rao has also been a Member of Bangladesh-India Maritime Arbitration Tribunal and also acts as Special adviser in the office of the Attorney-General, State of Qatar.

RADHA BINOD PAUL (1886 -1967)

Radha Binod Pal was an Indian judge on the Tokyo War Crimes Tribunal who dissented with the other judges to claim that the trial was an exercise in retribution by the victors of the war and that Japan's wartime leaders were not guilty. Pal's contribution to India-Japan relations is remembered even today. Following the war –crimes trial, he was elected to the United Nations' International Law Commission, where he served from 1952 to 1966.

P.C RAO (1936)

Many Indian jurists have distinguished themselves by being associated with multilateral organisations and contributing significantly to their functioning. One among them is P.C Rao who was Law Secretary in the Ministry of Law and Justice and has also worked at the Permanent Mission of India with the United Nations in New York from 1972 to 1976. Since 1996, he has been a judge at the International Tribunal for the Law of the Sea.

SOLI SORABJEE (1930)

Soli Jehangir Sorabjee, the eminent Indian jurist and former Attorney-General of India served as Special Rapporteur to the United Nations Human Rights Commission since 1997. Later, he was

appointed an Honorary Member of the Order of Australia (AM), "for service to Australia-India bilateral legal relations"

P.N BHAGWATI (1921)

Justice Bhagwati is a former Chief Justice of India. Through creative interpretation has expanded the reach and context of human rights. He was elected as the Chairman of United Nations Human Rights Committee in 1999.His services have been utilized by several countries, including Mongolia, Cambodia, Nepal, Ethiopia, and South Africa in framing their Constitutions and particularly the chapters on human rights. He has also presided over the Peoples Tribunal for Violence against Women at the Vienna Human Rights congress.

R.P ANAND (1933 - 2011)

Among the Indians who have made profound contribution to International Law is Prof. R.P. Anand. One of the pioneers of Third World Approaches to International Law (TWAIL), he is widely recognized and respected as a spokesman of the Third World views on the subject. He was Professor Emeritus in the Centre of International Legal Studies (CILS), Jawaharlal Nehru University, New Delhi and has also served as legal consultant to the UN Secretary General on Law of the Sea.

PROF. RAHAMATULLAH KHAN (1934)

Dr. Rahamatullah Khan is the former President and Secretary General of Indian Society of International Law. He has been the author of 6 books (on UN, International Arbitration, Fisheries, International Trade Transactions, Comparative Law) and 50 research articles.

Many more such as Prof. B.S Murty, Dr. K. Krishna Rao, M. K. Nawaz, S.P Jagota, T.S Ramarao, B. R Chauhan and Surya P Sharma have also contributed to various aspects of International Law. These include General Principles of International Law, World Trade

Organization, Intellectual Property Rights (IPRs), Human Rights, Law on Refugees, Environmental Law, International Court of Justice and also Arbitration.

2. NIEO PROGRAM

International lawyers, it is often said, are exceptionally, even ridiculously, fond of ‘‘universality.’’ And this fondness, bordering at times on the obsessive, manifests itself in a variety of forms, the most nebulous and notorious being the idea of ‘‘jus cogens norms’’—general principles from which international lawyers are willing to permit no deviation, even in the form of supposedly iron-clad treaties with directly countervailing provisions. Like principles of nonaggression and sovereign equality, prohibitions of piracy, slavery, and genocide are regularly ascribed jus cogens status, typically as part of an effort to win approval for one or another ‘‘social’’ model of international legal order Less frequently recognized, though, is that the kind of far reaching universalism to which international lawyers typically commit themselves has underwritten a variety of proposals for the reorganization of international legal and economic relations. Arguably the most ambitious such proposal was the project for a New International Economic Order (NIEO) in the 1970s. Spearheaded by the nonaligned Third World and drawing heavily upon the rhetoric of universalism, the NIEO underscored the need to facilitate technology transfer, regulate foreign investment, supervise transnational corporations, encourage debt-relief and development assistance, and bolster sovereignty in respect to use of natural resources and formulation of economic policy—all with a view to restructuring north-south relations for an age in which many had become suspicious of the trade and investment regimes fostered by the post-1945 class compromise often characterized as ‘‘embedded liberalism.’’ If the wave of decolonization that swept through Asia, Africa, and the Pacific during the third quarter of the twentieth century produced a large number of formally independent states, the NIEO sought to consolidate and expand the scope of this transformation in the name of a genuinely inclusive international order—an order in which power would be redistributed on a global scale and de jure sovereignty would be reinforced with full-scale economic development.

From the fortification of the principle of self-determination to the articulation of a right to development, from the augmentation of the principle of permanent sovereignty over natural resources to the development of a ‘‘common heritage of mankind’’ doctrine, the NIEO’s central claims were clothed in a particularly effusive form of universalism, one that would inaugurate a new, generously ‘‘social’’ conception of international affairs while doing away with the last vestiges of nineteenth- and early twentieth-century classical international law.

2.1 THE THIRD WORLD AND MOHAMMED BEDJAOUI

As an attorney and legislator with solid establishes in both Algeria and France, Bedjaoui's direction is illustrative of a progression of more extensive learned and expert advancements amid the Cold War. Conceived in Sidi Bel Abbès, close Oran, to a group of unobtrusive means, Bedjaoui considered law and political science in Grenoble, where he came into contact with "solidarist" legitimate humanism, an exceptionally nebulous type of sociological statute that had risen in the French Third Republic and kept on getting a charge out of leftover impact at the time. Thus leaving upon a double track lawful and political vocation, Bedjaoui developed his contribution in the battle for Algerian determination toward oneself, serving as legitimate consultant to the Front de-liberation national and its temporary government and partaking in the Evian and Lugrin gatherings in 1961, where the terms of Algeria's freedom from France were arranged. In the two decades that took after the accomplishment of autonomy in 1962, he posssessed different political and scholarly posts in Algeria, served as its minister to France, and spoke to its administration at discretionary gatherings, at the same time constructing the notoriety of a productive and regarded universal attorney that would arrive him a seat on the World Court in 1982 (a date which is intriguing for various reasons, not the minimum of which is that it denote the obligation emergency that successfully sounded the passing sound for the NIEO). The starting experience with the "social" way to deal with law—a methodology that was not entirely communist, in any event not in any predictable sense, yet that in any case saw the connection in the middle of "law" and "society" as more tightly and more perplexing than customary lawful formalists were arranged to concede turned out to be particularly enduring. In reality, it was on the premise of a somewhat radicalized variation of sociological law, especially the sort of post positivist legitimate hypothesis championed by mid twentieth-century French erudite people like Léon Bourgeois, Léon Duguit, and Georges Scelle, that Bedjaoui in the long run endeavored to

create what he viewed as a "comprehensive," extensively hostile to formalistic contention for the NIEO.

Bedjaoui was not, obviously, alone in these endeavors. The talk of "solidarity" was omnipresent at the time, made all the more in vogue by its versatility and imprecision. Also, Bedjaoui had a place with an era of world class, Western-instructed Asian, African, and Latin American legal advisers who were focused on understanding the NIEO and the change of north-south relations it involved. As a rule, as with Kamal Hossain of East Pakistan and later Bangladesh, such law specialists drenched themselves in local political undertakings in the wake of getting preparing in law abroad. In different cases, as with Georges Abi-Saab of Egypt, to some degree atypical for having examined financial aspects and additionally law, they constructed their professions fundamentally by meeting expectations for global courts and associations (Abi-Saab's own experience would in the end incorporate the International Criminal Courts for Rwanda and the previous Yugoslavia, and also the World Trade Organization's Appellate Body). Indeed along these lines, it was Bedjaoui who offered the most far reaching legitimate contention for the NIEO program, the centerpiece of Third World activism inside the United Nations amid the 1In Towards a New International Economic Order, his most influential piece of scholarship, Bedjaoui devoted the bulk of his energy to a series of reform proposals. At root, nearly all such proposals promoted the establishment of new international institutions to complement existing United Nations agencies and departments, encouraged resistance to attempts on the part of developed states to co-opt or otherwise deracinate the “common heritage of mankind” doctrine, and called for greater use of General Assembly resolutions as a means of circumventing the influence of a Security Council dominated by great powers. Nevertheless, at every turn, these and related proposals were introduced on the basis of a grander, more elaborate program—namely, galvanizing faith in international law’s capacity to secure “the integrated development of all the peoples on Earth.” For Bedjaoui, the Third World was entrusted with the responsibility of militating for the new order that would make such development possible, acting not simply on its own behalf but as a representative of the “whole world community.” This was of crucial significance, as it was only through the coordinated actions of a politically conscious and economically self-reliant Third World that international law might be mobilized “in the interests

of mankind as a whole." International law was capable of acting as a progressive force for the entire "international community," but only insofar as the Third World was prepared to intervene in international affairs with a view to transforming the "fictitious independence" of the "probationary" postcolonial state into a real sovereignty buttressed by economic autonomy.

Despite its similitudes to different works of the period, Bedjaoui's study—the NIEO's most compelling and broadly coursed lawful pronouncement was particularly prominent for the power with which it focused on "the advancement of all." In restriction to the individuals who saw Eurocentrism as an issue of the past, fixing inseparably to a mutable "standard of progress," which had appreciated impact in the late nineteenth-century time of government yet had subsequent to been erased from standard legitimate talk, Bedjaoui displayed decolonization and its financial finishing in the NIEO as a direct test to Euro-American administration, the universal law it generated, and the drastically uneven improvement that was consequently cultivated and legitimated. Pretty much as the thought of a "group of countries" had once served as an instrument of government, making it conceivable to recognize "edified," "semi-cultivated," and "savage" people groups when planning teachings of distinguishment, so too it was presently controlled to weight recently autonomous states with a large group of outlandish commitments, obliging their opportunity of activity and rendering existing components of control all the stronger for having ended up undetectable. Bedjaoui had no tolerance for this, hopeless as it apparently was with his universalism. History, he composed, offered "the best conceivable argument against a law which is mainland as opposed to global," and anyone of lawful tenets and standards that neglected to regard "genuine human solidarity" would simply play under the control of a specific "syndicate of States." When all was said and done, Bedjaoui subscribed to a natural, and eventually teleological, vision of the historical backdrop of universal law: the profoundly Eurocentric request sanctified in the "Westphalian" law of countries had been supplanted by the expressly imperialistic legitimate positivism of the mid- to late nineteenth century, which, thus, had been supplanted by a promising however profoundly conflicting move to worldwide associations in the first 50% of the twentieth century. Decolonization was best seen as the finish of this procedure of universalization—the climax of a dynamic, however incremental, duty to art a genuinely "open group" on the remains of conventional universal law. What's more, the NIEO, going for a precise remaking of north-south relations, was key to satisfying the financial preconditions of a completely decolonized world.

That said, Bedjaoui's safeguard of universalism was not by any means reliable. At key focuses in his content, Bedjaoui showed alert in admiration to the ramifications of universalistic talk, calling attention to that it had frequently fortified unequivocally those relations of force that hindered the participatory global request whose solidification he planned to encourage. Such alert was identified with his endeavor to keep up a certain level of separation from both Soviet and U.S. encounters. In spite of the fact that he inclined upon different strands of neo-Marxist hypothesis, especially world-frameworks hypothesis, Bedjaoui was, for occurrence, watchful to evade dependence upon any formative model that would acclimatize change on the outskirts of the world economy to a direct record of stage-by-stage movement toward the communist perfect world. Thus, "all inclusive mindfulness" may have been the supernatural skyline of Bedjaoui's vision of another, appropriately "current" worldwide law, however the sort of modernization hypothesis promoted by Walt Rostov in the 1950s and 1960s was obviously not what he had as a top priority when he glorified the United Nations' guarantee of an "open group," cheered the nearing "compromise of humankind," or discussed "the quest for and the support of all inclusiveness." Bedjaoui set awesome esteem on comprehensiveness. He noticed that even well meaning endeavors to guarantee that global law did not remain a "law for the ghetto" could blowback if the charges of pietism and twofold benchmarks on which they depended added to the kind of regionalism that had since quite a while ago powered apprehensions of worldwide law's "atomization" and "distinct difference." a conspicuous difference to legitimate regionalism, bolstered by the Chilean legal scholar Alejandro élvarez as right on time as the turn of the twentieth century, Bedjaoui foregrounded the need to act and think internationally: decolonization was the culmination of humankind's hundreds of years lengthy commute toward ever more prominent levels of equity and consideration, thus the NIEO, as the monetary finish of decolonization, must be seen as a completely universal reaction to a completely worldwide arrangement of difficulties. Yet such internationalism, and the universalism by which it was supported, was not to be mistaken for a mechanical record of advancement filed to an all-encompassing hypothesis of innovation.

No less integral to Bedjaoui's contention for another global request was a thorough study of lawful formalism. Bedjaoui rejected wholesale the case that law might conceivably be seen as a shut framework with a completely self-ruling rationale. Law, he demanded, does not get its power essentially from the formal strategies through which particular guidelines arrive at be invested with legitimate power. Such a perspective, which he portrayed as "lawful agnosticism," neglected to perceive that legitimate standards are attached in and receptive to extralegal substances that, in the last occurrence, law is best considered as a "ward variable" that is in any case a critical "component of progress," got from yet fit for mediating in relations of financial and political force. Sustained to a great extent by a francophone convention of lawful solidarism, such hostile to formalism had boundless ramifications. For Bedjaoui, law was both progressive and emancipatory, a "marker" of existing conditions and an "impetus" for substantive change, as fit for settling in as it was of subverting relations of command. A genuinely dynamic record of universal law, one that made space for its advancement and its ability to impact solid change, could be created just by tolerating "the demise of dated legitimate science," and with it the supposition that worldwide law was basically impervious to the sort of "institutional activity" and "broad regularizing movement" that alone could further the NIEO. Universal legal counselors wouldn't, he be able to guaranteed, stay married to the worn out idea that legitimate standards are free of financial and political strengths, constituting a static totality recognized by interior soundness and natural levelheadedness, without likewise staying not interested in law's ability to further equity, giving a system inside which hegemonic cases may be countered and weaker states managed a measure of insurance. Hostile to formalism was consequently key to opening law's subversive potential: "While it is fairly gullible to feel that universal law can, without anyone else, turn into the foundation of progress and improvement, it is similarly wrong to say that worldwide law can just speak to the sanction and preservation of effectively settled global standards."

Here as well, however, Bedjaoui's position was stamped by uncertainty. While he held firm to a solidarist mode of sociological law, even to the point of issuing requires a finely tuned "humanism of universal gatherings," Bedjaoui likewise felt a need to push his proceeded with deference for the authoritative document. It was, he contended, as a result of their long-standing

longing to change, not to deny, the United Nations that Third World states squeezed so energetically, even frantically, for another global request. Their failure with existing lawful structures should not to be mistaken for a rejection of lawfulness tout court, for adjusting legitimate standards and foundations to changing circumstances was important to guarantee that another world request may be created. Therefore, when drawing the benefits and downsides of the idea of a "typical legacy of humankind," Bedjaoui released the proposal that it ran counter to conventional perspectives of statehood, guaranteeing straight that, when all was said and done, the worldwide solidarity in which promoters of the "basic legacy" idea put their confidence was introduced upon proceeded with adherence to built lawful models of sway. Regardless of his against formalism, Bedjaoui was quick to accentuate that he stayed conscious of the authoritative document of power, significant, in his perspective, to compelling a large group of powers from northern neocolonialism to transnational private enterprise that would somehow go unopposed. Similarly as with such a variety of different legal advisers partnered with or thoughtful to the diversions of the Third World, he was willing to temper his general duty to against formalism with a suspicion of easygoing and inordinate de-formalization, a wonder that discovered outflow all through the 1970s in expanded endeavors to weaken sovereign power by plan of action to "delicate law" and "transnational law." After all, it was definitely not pass that de-formalization would dependably profit the Third World, instead of just serving as a technique to keep certain territories of universal relations past the span of legitimate responsible.

Interestingly, the two focal highlights of Bedjaoui's investigation a vivacious, if conflicting, guard of all inclusiveness, and a clearing, however careful, study of formalism—would inevitably show themselves in a clear dependence upon jus cogens, in the sentiment of numerous legal scholars the "loftiest" declaration of global law's "inward nature." Towards a New International Economic Order makes little specify of jus cogens, with just a solitary, express reference in almost three hundred pages of definite exchange, and this of a somewhat passing and unilluminating sort. Yet for Bedjaoui, it was eventually through the sort of solid duty to worldwide equity that got its broadest juridical declaration in jus cogens that the formalism of traditional universal law, not slightest its progressing in-debtedness to the mission civilisatrice and its emphasis on satisfying arrangement commitments paying little heed to changes in circumstances, may at last be overcome for the sake of a widespread global legitimate request. Furthermore, nearly seven years after the distribution of Towards a New International Economic

Order, he would make the association between jus cogens and the NIEO straightforwardly. Depending upon UN resolutions, World Court choices, and even the compositions of Marcel Mauss and Georges Bataille, Bedjaoui now propelled an against formalist contention for "global solidarity" by recommending that the privilege to improvement, the standard of changeless power over common assets, and other center components of the NIEO system were guaranteed by jus cogens standards. As the "most terrific" explanation of the legitimate universalism bolstered by the "Third World exchange union" that had been cobbled together after decolonization, jus cogens was neither an unfilled reflection nor a worn out revival of regular law yet the result of a maintained push to guarantee that no "'politically-sanctioned racial segregation' of worldwide law" would go unchallenged. This, it appears, was the apogee of Bedjaoui's emphasis on a deformalized, completely "social" universalism.

Towards a New International Economic Order describes decolonization as an "unmitigated basic," associated (despite the Kantian wording) to the French and Russian transformations in scale and criticalness. This is neither a cocky examination, unsupported by educated comprehension of global history, nor a baseless embellishment, outlined basically to prepare of aggressor Third World activism. In actuality, it underscores Bedjaoui's long lasting contribution in the law and governmental issues of decolonization, as a matter of first importance in the setting of his local Algeria. Almost a quarter century to the distribution of Towards a New International Economic Order, Bedjaoui had distributed a study on the particularly legitimate measurements of the Algerians' imperviousness to pioneer principle. Titled Law and the Algerian Revolution, this work had likewise been composed around a general responsibility to universalism. Not at all like provinciality, whose lawful structures were excessively uncalled for, too assailed by inner disagreement, and too unmistakably subordinate upon incredible force interest to constitute anything like an "all inclusive framework," even an ostensibly practical one, against expansionism had, Bedjaoui accepted, succeeded in discovering "positive widespread legitimate articulation," fortified as it was by rights to sway and determination toward oneself supporting the "substantive global law" he would look at nearby other people in Towards a New International Economic Order. The Algerian individuals' encounter with French frontierism and the class relations it upheld was of significant significance in this respect, as the "persistently

rising bend of the Algerian Revolution" had concurred Bedjaoui's local nation a "main spot" in the "immense development of breaking down of the provincial framework."

To be sure, Algeria was a consistent wellspring of motivation all through a vocation that saw Bedjaoui possess various posts in its administration and speak to it at innumerable gatherings of the United Nations, Arab League, and Organization of African States, also in the eyes of the World Court in 1975 for profoundly questionable processes concerning the lawful status of Western Sahara. Bedjaoui was pleased that it was in Algiers that the Universal Declaration of the Rights of Peoples had been marked in 1976, and he underlined that the city had facilitated the initially meeting of the Group of 77 in 1967 and the fourth real meeting of heads of state for the Non-Aligned Movement in 1973, the recent of which he saw as having "been to the Third World's battle for financial liberation what the Bandung Conference of 1955 and the Belgrade Conference of 1961 were to the battle for political liberation." It was Algeria, he contended, that had taken up the mantle of universalism with most noteworthy consistency, battling for a privilege to improvement commenced upon "another global social law" that would be propelled by the soul of "solidarity" and committed to enhancing the part of each "common country." It proved unable, at any rate, be denied that it had been Algeria that had squeezed for an uncommon session of the UN General Assembly to talk about inquiries concerning advancement and crude materials, and that it had been at this session that the NIEO had started to expect an unmistakable authoritative document.

Considered from the angle of his inclusion in the NIEO, Bedjaoui's connection to Algeria is lighting up. Certainly, Bedjaoui was barely unmindful of what he viewed as different destinations of resistance against both ruthless state-supported free enterprise and what he named the "private macro-force" of multinational enterprises. Salvador Allende's Chile is, for instance, referenced all through his work, incorporating at a few focuses in Towards a New International Economic Order. Yet it is to Algeria that one discovers Bedjaoui turning most reliably keeping in mind the end goal to affirm the centrality of his new "all inclusive mindfulness." The "worldwide issue" to which the NIEO was a reaction would prepare for "the salvation of all humanity," and this, he thought, would be expected in no little part to Algeria's determination to accomplish

political freedom, strengthen it with financial sway, secure solid ties with other as of late decolonized states, and work indefatigablely toward a universal redistribution of rights and assets, not just through support in maker relationship like the Organization of Petroleum Exporting Countries additionally through facilitated arrangements for quick and thorough industrialization.

Clearly, Bedjaoui was not the scarcest bit extraordinary in this appreciation. Really, Bedjaoui's vision of Algeria and its place in a rapidly decolonizing world was all that much in keeping with the way in which driving people from its modernizing tip top grasped the geopolitical and ideological environment inside which they met expectations. Algerian policymakers routinely invited backing from a blended sack of magnificent strengths. In any case they furthermore made moves to position their state as a pioneer of the Non-Aligned Movement, moving despite strong competition from any similarity of Tito's Yugoslavia at the same time. Autonomous of their abberations, Ahmed Ben Bella and Houari Boumediene, the two most overpowering figures in the political presence of right on time independent Algeria, were both attempting to have their state perceived as a model of comrade against government for the Third World by and large. Such viewpoints were not the smallest bit limited to the Algerians themselves. Having sought after a war of liberation that had stirred relationship from Fatah to the African National Congress, Algeria was for the most part saw as the postcolonial state second to none, the lynchpin of unfriendly to government for a time of brains and activists influenced by Frantz Fanon, Jean-Paul Sartre, and an always broad Marxism. The French began to place assets into such suggestions even before Algeria won its self-rule, with de Gaulle overplaying the possibility that equitable boundless scale developmental assignments and a carefully organized settlement could energize the kind of coopération anticipated that would ensure that Paris continued retainning its key foothold in the Third World. Writing in 1977, even Jagdish Bhagwati watched the overall resonation of Algeria's socialist trial by suggesting that what he termed the "North-South dialog" moved ahead with unabated and "on a greater number of harmonious terms than the early 'Algerian-style' talk and the 'Moynihan-style' ripostes (both of which were irrelevant yet unmistakable in their own particular viable achieves)." If, as Matthew Connelly has seen, Algerian opportunity was the eventual outcome of an "optional change," an insurrection made

and achieved through the force of law, then it was moreover a key viewpoint in the endeavor for a reconfigured general legal and financial appeal the endeavor through which the system of decolonization was to be brought to its complete choice.

It is of no little hugeness that Towards a New International Economic Order appeared in 1979, five years after the Declaration and Program of Action on the Establishment of a New International Economic Order and the almost related Charter of Economic Rights and Duties of States, the key legitimate instruments of the NIEO. The United Nations Conference on Trade and Development, a discriminating social affair for trade of NIEO-related issues, had by then been stripped of the emancipatory ensure it had demonstrated under the early organization of Raúl Prebisch. Human rights had been "operationalized," pulling their fair share as a solid political constrain in the hands of the Carter association and early advancement social affairs like Amnesty Internatio And the NIEO itself was progressively viewed as a losing recommendation; it had gone under genuine flame from an assortment of quarters, and the vast majority of its radical inclinations had as of now been co-selected or killed, not minimum through a blast in the quantity of respective speculation bargains. To some degree, Bedjaoui's content affirms the impact of these improvements, double-crossing a touch of upsetting, even confusion, here and there. Interestingly, however, even at this similarly late stage in the NIEO's history, Bedjaoui held a remaining confidence in universal law and worldwide associations. He tossed his weight behind organization fabricating inside the parameters of the United Nations framework, and he disturbed for a completely "social" world request, one that would radicalize customary originations of statehood, sway, and determination toward oneself with a perspective to accomplishing a "more pleasant," more "impartial" worldwide dissemination of assets.

Throughout the years, both the NIEO and Bedjaoui's book have pulled in a mixture of basic evaluations from universal attorneys. David Kennedy has proposed that Bedjaoui's (overwhelmingly French) comprehension of the connection in the middle of law and financial advancement rested upon a flimsy blend of solidarism and ordinary positivism, with thoughts of worldwide association conjoined uneasily with conventional suspicions about national sway. Composing from a postcolonial viewpoint situated toward "social developments," Balakrishnan

Rajagopal has described Bedjaoui's rehashed conjuring of establishment building, and the "useful and natural revamping" of global issues it would help to realize, as a return to obsolete accounts about worldwide law's central goal to ensure advancement and illumination. Looking for the reason for the NIEO's definitive disappointment, Margot Salomon has indicated not just difference between oil-delivering and non-oil creating expresses, a routine and commonly to some degree exaggerated feedback, additionally, and all the more vitally, to coordinated resistance from First World states, which by and large evaded direct arrangement while redirecting key inquiries to the global monetary organizations they ruled. Some, in the same way as Sundhya Pahuja, essentially do without the endeavor to give a clarification of the NIEO's disappointment, concentrating rather in transit in which bolster for vital highlights of its program has waxed and faded in a steady battle to enrich specific qualities with "general" status.

While each of these focuses has its merits, Salomon's clarification strikes nearest to the imprint. The NIEO's supporters succeeded in making a privilege to improvement and expanding the guideline of perpetual sway over common assets however neglected to understand the through and through reproduction of universal lawful and financial relations to which its more goal-oriented supporters had aimed. Whatever its applied sloppiness and its leftover connections to questionable accounts of positivist advance, the NIEO's disappointment was at root a confirmation of the shortcoming of open power notwithstanding private power, the worldwide south even with the worldwide north, the formative state despite the state-legitimated business sector. Bedjaoui may have been persuaded that his "auxiliary transformation" was "unyieldingly on the walk," given that, in his perspective, "financial phenomena have ended up so loaded with disagreements that they are prepared to bring another world into being." But like all different activists of the NIEO, he was working and composing during an era when the last significant phase of decolonization had inspired solid responses, from the revitalization of neoclassical financial aspects to the preparation of individualistic human rights, both of which stood in a far-reaching way contradicted to powerful politico-monetary determination toward oneself. Rising as a change plan after the breakdown of the Bretton Woods framework and the oil emergency of 1973, the last halfway a response to U.S. support for Israel amid the Yom Kippur War, the NIEO met its downfall with the obligation emergency of the mid 1980s, an outgrowth of another time

of predominance for private capital in which state ventures were sold to the most elevated bidder and severity driven basic modification built itself as an acknowledged practice. That Bedjaoui never surrendered his confidence in universal law or the United Nations, whose "general nature" he saw as an underwriter of the NIEO's possible achievement, would be confused were it not for his comprehensively antiformalist duty to lawful universalism. The "comprehensive way to deal with worldwide law" whereupon he stuck his trusts might not have borne natural product with the NIEO, however it would, Bedjaoui stayed persuaded, do as such after a short time. Such, all things considered, was "man's fate".

3. THIRD WORLD REFLECTED BY MOHAMMED BEDJAOUI

Mohammed Bedjaoui is the retired Judge and President of the International Court of Justice. He was selected by the United Nations General Assembly and Security Council as a member of the ICJ on 19th March, 1982. He hails from one of the third world country i.e. Algeria and he is an excellent Diplomat, an International Lawyer, and excellent Jurist. He has served Algerian ambassador to France and United States and had been part of many International Law Commissions.

Mohammed Bedjaoui not like those contemporary Judges, who just comes and pronounce decisions and give verdicts. He is few of those intellectual persons who want to see an ideal world in which everybody lives in peace and harmony and Justice prevails at the highest level in the world.

Mohammed Bedjaoui wants to reduce the gap between the third world countries and other countries of the world and to achieve this ambitions, he has taken many noteworthy steps. One of those steps is his book titled, "Towards a New International Economic Order", which is one of the best books written by anybody to understand the cult between the third world countries and the entire world. This book is the first book in UNESCO's series devoted to, "New Challenges to International Law" and this book very eloquently shows about the views of the third world and

their claims for the 'equitable' legal and social order. Although, there are many things in this book which will not be accepted by a western reader or lawyer and they may find it uncongenial and rasping. But at the same this book can be the best source to understand the third world perceptions of International law and this book deserves a reading by at least the legal strata of the world.

He has contended about the demands and contentions of the third world countries and has stated that economic, moral and political considerations are the basis of the third world demands for more smooth and equitable systems of International Law.

The New International Economic Order (NIEO) was a set of proposals put forward during the 1970s by some developing countries through the United Nations Conference on Trade and Development to promote their interests by improving their terms of trade, increasing development assistance, developed-country tariff reductions, and other means. It was meant to be a revision of the international economic system in favor of Third World countries, replacing the Bretton Woods system, which had benefited the leading states that had created it; especially the United States. And these demands are best known as they appeared in the 1974s resolution of United Nations General Assembly.[1] The "Declaration on the establishment of the New International Economic Order", proclaims a 'United Determination to work urgently for" and order which is based on the concept of sovereign equality, equity, inter dependence, common interest & cooperation among all the states irrespective of their social and economic tenants. Also, this organization should take steps to correct the injustices and inequalities, to bridge the gap between the developed and the developing countries, to control the animosities and to strive and achieve the aim of reducing the economic and social gaps and to take steps for the steadily accelerating economic and social developments, peace and justice for present and future generations.[2]

The main tenets of NIEO were:

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[1] *See* Mohammed Bedjaoui, towards a new international economic order (1979)

[2] GENERAL ASSEMBLY RESOLUTION 3201 (S-VI), 6 (SPECIAL) U.N. GAOR SUPP. (NO. I) AT 3, U.N. DOC. N9559 (1974),
REPRINTED IN IN 13 I.L.M. 715, 715-16 (1974)

[3] GENERAL ASSEMBLY RESOLUTION 3201 (S-VI), 6 (SPECIAL) U.N. GAOR SUPP. (NO. I) AT 3, U.N. DOC. N9559 (1974),
REPRINTED IN 14 I.L.M. 251, 252-56 (1975)
REPRINTED IN IN 13 I.L.M. 715, 715-16 (1974)

- Developing countries must be entitled to regulate and control the activities of multinational corporations operating within their territory.
- They must be free to nationalize or expropriate foreign property on conditions favorable to them.
- They must be free to set up associations of primary commodities producers similar to the OPEC; all other States must recognize this right and refrain from taking economic, military, or political measures calculated to restrict it.
- International trade should be based on the need to ensure stable, equitable, and remunerative prices for raw materials, generalized non-reciprocal and non-discriminatory tariff preferences, as well as transfer of technology to developing countries; and should provide economic and technical assistance without any strings attached.

Mohammed Bedjaoui also gives the example of the 'Charter of Economic Rights and Duties of the States' which also makes similar statements and provides that States must be "mindful of the need to establish and maintain ajust and equitable economic and social order."The Charter describes "mutual and equitable benefit" as a principle that should govern "economic as well as political and other relations among States," and urges States to "cooperate in facilitating more rational and equitable international economic relations."[3]

Mohammed Bedjaoui very brilliantly articulated in his book about the questions raised by such declarations and treaties in the International law and stated that whether the International Law can or should take part and steps in attaining the aim of establishing the equitable International Economic Order. He moves on further and says that, whether such provisions based on the notions of equity can be backed up by any legal character or authority or they should simply be the economic, moral and political aspirations. His book is the best source to understand the perceptions of the third world countries on this issue. He himself being the product of a third world country, can very well explain the mentality and their ideas.

[3] GENERAL ASSEMBLY RESOLUTION 3281 (XXIX), 29 U.N. GAOR SUPP. (NO. 31) AT 50, U.N. DOC. N9631 (1974), REPRINTED IN 14 I.L.M. 251, 252-56 (1975)

Mohammed Bedjaoui does not agree with the present system of International Economic Relations and rejects this whole system at the very first instance. Firstly, he analysis very perfectly and establishes that there are great disparities of wealth in this world. Secondly and most controversially, he moves further and says, the sole major cause of this disparity of wealth is the Western Exploitation that leads to poverty of the Third World Countries.[4] He very boldly claims that, "third world pays for the rest and leisure of the inhabitants of the developed world"[5] and that all the problems prevailing in these countries has been created by the European World and the United States has helped them and appreciably aggravated all the problems faced by the 'third world'.[6] He actually stated the European world and the US as the villain behind all this drama and he has proved this point beyond doubts in the best possible manner. It is from these economic considerations that Bedjaoui advances his central argument for rejecting the current and traditional system of International Law. He says, "International Law has faithfully interpreted this current system of International Order and has thus fused his foundations. Disguise as triviality or neutrality, it is in effect a permissive law intended for liberal or neo liberal world economy based on certain people's freedom to exploit others."[7]

Despite occasional heavy broadsides,[8]Bedjaoui moves on to say that the problem with international law is not that, it is so much actively unfair but the problem is that, it has not taken due steps to close the economic gap between the North and the South. "Under the cover of neutrality and the refusal of any political affiliation, this traditional system of International law has permitted colonization, the evil practice of man by man, and the racial discrimination. He says, that through formal sanctions and abstract regulations, International Law has permitted the

[4] SEE, SUPRA NOTE 2, AT PP. 26-49. OF COURSE, SUCH A VIEW DIFFERS CONSIDERABLY FROM THAT HELD BY MANY WESTERN OBSERVERS. EVEN AN EARLY AND SYMPATHETIC WESTERN ON-LOOKER, BARBARA WARD, FOUND THE SOURCES OF THE WEST'S PROSPERITY IN ATTRIBUTES OF THE PEOPLES OF THE NORTH ATLANTIC AREA AND. THE REASONS FOR THE THIRD WORLD'S UNDERDEVELOPMENT IN PROBLEMS WITHIN THE THIRD WORLD ITSELF. B. WARD, THE RICH NATIONS AND THE POOR NATIONS 13-61 (1962). FOR A MORE RECENT WESTERN PERCEPTION SUGGESTING THAT THE WEST MAY NOT BE RESPONSIBLE FOR THE UNDERDEVELOPMENT OF THE THIRD WORLD.
SEE LITTLE, ECONOMIC RELATIONS WITH THE THIRD WORLD - OLD MYTHS AND NEW PROSPECTS, 22 SCOTT J. OF POL. ECON. 223 (1975)

[5] BEDJAOUI, *SUPRA* NOTE 2, AT 36.

[6] ID. AT 119

[7] ID. AT 48-49

[8] INTERNATIONAL LAW IS A "LAW OF APPROPRIATION." ID. AT 11. "INTERNATIONAL LAW MADE USE OF A SERIES OF JUSTIFICATIONS AND EXCUSES TO CREATE LEGITIMACY FOR THE SUBJUGATION AND PILLAGING OF THE THIRD WORLD." ID. AT 49

legalized encroachment of powerful and affluent countries through the impoverishments of the poor countries.[9]Bedjaoui's solution is to transform through the efforts of the developing countries:

But this law, which has done nothing to help the poor countries, may nevertheless be improved thanks to them. This is the task which the developing countries have undertaken, being resolved to free international law from its paralyzing formalism and its heavy armor of hypocrisy, and to steer it towards a nobler, more humane and more essential goal - the promise of development.[10]

Bedjaoui went further and shows his optimistic approach by asking for a more active international law. He, in spite of knowing the fact that the current system of international law is somewhat is in the favor of the International law, he demands for a more activist approach form the International law to promote the progress of the International community[11]and where "development will be balanced and harmonious and all countries and nations find fulfillment."[12]

It is at this point in his analysis that Bedjaoui makes his argument on behalf of an "equitable" international order. He claims that international law can foster a "balanced and harmonious" development only be emphasizing the "principle of equity." He states:

That the International Law of Participation is founded on the principles of solidarity and it is all embracing and co-operative, it should give prime importance to the principles of Equity rather than the principles of Equality because equity is a much wider concept and equality is one of the parts of the equity. In attaining this aim, this International Law must keep in mind the objective and view, which consist of reducing as well, if possible eradicating the gap between the haves and the have not, the rich nations and the poor nations, the developed nations and the developing nations. There is no doubt at all that it is a far-reaching legal revolution to have given international law this task of fostering a policy of development and to have made this 'an international legal duty' for the rich states and a 'subjective international right' for the developing countries.[13]

[9] ID AT 63
[10] ID AT 63
[11] ID AT 113
[12] ID AT 110
[13] ID AT 127

Bedjaoui's formulation of argument is very much clear declaration of the third world countries perceptions on this issue of new international economic order. They says that to bring back the prosperity and success in these areas, the redistribution of wealth is required and it is the only mainstream solution.

Bedjaoui, assumes and has stated in his book that this redistribution of wealth and following the principles of equity rather than equality will be a revolutionary step in bridging the gap between the North and the South. He is of the firm believe that the current traditional international law in inefficient to fill up the gaps between these two. Bedjaoui at the very first instance rules out the use of custom in the international law as the solution to the problems faced by the third world countries. "Backward looking, conservative because static, iniquitous in its content, ponderous in its formation, custom as traditionally conceived cannot be of real use in the development of new rules, and could actually be an obstacle to any attempt at change."[14]Bedjaoui is also reluctant in viewing and accepting the treaties as the solution for the problems of the third of the world. Although the treaties have been and will be helpful for the problems of the third world, but they are cannot permanently solve the problems of the third world because they are time consuming and does yield result for a long span of time.[15]Further, he gives short shrift to general principles of law.[16]Remarkably, Bedjaouiclaims "international law has never drunk from the spring of natural law."[17]

After rejecting the traditional source of International Law,[18]Bedajoui moves on to say that of all the things we have or "all that is left is the resolution or, in more general terms, the legal standard elaborated in international organizations, in order to attain the sought after goal.[19]

[14] ID AT 137
[15] ID AT 138
[16] ID AT 129
[17] ID AT 105
[18]BEDJAOUI'S DISTRESS WITH THE TRADITIONAL SOURCES OF INTERNATIONAL LAW IS SHARED BY OTHER THIRD WORLD OBSERVERS. OKOLIE, A NIGERIAN, CONCLUDES A SURVEY OF TRADITIONAL SOURCES OF INTERNATIONAL LAW: U [L] LEGAL ARGUMENTS HAVE ALWAYS BEEN USED TO EXPLAIN THE DOMESTIC AS WELL AS INTERNATIONAL ABUSE OF THE THIRD WORLD PEOPLE, AND THEY WILL CONTINUE TO BE USED IN THAT MANNER." C. C. OKOLIE, INTERNATIONAL LAW PERSPECTIVES OF THE DEVELOPING COUNTRIES: THE RELATIONSHIP OF LAW AND ECONOMIC DEVELOPMENT TO BASIC HUMAN RIGHTS 64 (1978).
[19]BEDAJOUI'S, *SUPRA* NOTE 2 AT 129

Then he moves on further and throws light on the next part of his book in which he goes on to elaborate the alternatives and suggests various methods in which these resources can be used. These methods can be best explained as: (1) argues that majority rule in votes of international organizations should be the principal source for international legal norms[20] (2) repudiates all Western attempts to limit the majority rule of the Third World[21] (3) attacks the non-enforcement of resolutions [22](4) calls for institutional re-forms to better attune international organizations with the numerical superiority of the developing countries.[23]

This book depicts great ideas about the third world perspective on International Law which is very different from common western perspective and all those people who wants to understand the situations, must read this book once in their lifetime. Another thing which is noteworthy is the fact that, the lawyers of the International law needs to understand effects and methods which Bedajoui is trying to convey that If international lawyers are to fashion a truly "international" law, perceptions and claims such as those advanced by Bedjaoui will need to be integrated into a system of law in which not only Western but also Southern lawyers feel comfortable. There is, of course, no assurance that this can be done. The gaps between lawyers in developing nations and those in industrialized nations may be too great. As a result, international law may increasingly fragment into differing systems; parts of each system may be compatible with other systems, but large parts of "international" law may nevertheless become particular to special regions or philosophies.

This book is a great masterpiece written by such an intellectual but there are certain things which could have been addressed by the author. If the author would have tried and discovered and mentioned about the common grounds between the North and the South, then it would have been more fruitful effort. Bedajoui at a few levels failed to understand the flexibility prevailing in the International law to achieve the concept of equity for the betterment of third world and the developed nations. We can also say that he was reluctant enough to not understand the merits and methods of the International system to achieve the equity. Bedajoui has also claimed at any places that the International Law has just failed to take into consideration the aspects of ‘natural

[20] ID AT 140-44
[21] ID AT 157-74
[22] ID AT 174-77
[23] ID AT 157-58, 193-220

law'.[24]This cannot be true. However far international law has sometimes strayed from natural law, the discipline certainly drank first from that spring.[25] Indeed, a succession of positivists have complained that international law consists of too much natural law and of too little positive law.[26]A significant body of traditional legal theory and practice is devoted to the relation between international law and equity. It is to this body of law which Bedjaoui might have turned.

In the end we can conclude by saying that, this is a great work done Bedajoui. He has taken a lot of hard work, dedication and passion to convey his message and his understating of the third world perspective. He is one of those greatest luminaries of this legal field who have contributed so much to the international law and will continue to do this till the end. Today, we need such people all over the globe to make this world a happy place live in. I would also like to say that the lawyers and the academia should try to understand his work and also his message which he is trying to convey. They should understand his work and try to take lesson but along with that the problems of the west should also be taken into consideration. Bedajoui deserves a great honor and respect from everybody taking into consideration his efforts and hard work. He belongs to the third world country and still he reached to such great heights and set benchmarks for others. In the end I would like to conclude by saying that, today we need more people like Bedajoui who can make the world think about the unnoticed problems of the world.

4. CONTRIBUTIONS OF MOHAMMED BEDJAOUI

Mohammed Bedjaoui was born on September 21, 1929 in SidiBel-Abbes. He is an Algerian diplomat, Lawyer, officer, politician and jurist. He studied and graduated from the Grenoble Institute of Political Studies in 1952 and received a doctorate in law from the University of Grenoble in 1956 before he went on to serve to so many higher places. He has served as Algeria's ambassador to France and the United Nations among other places.Mohammed Bedjaoui was President of the International Court of Justice from the year 1994 to 1997, and a judge on the Court from the year 1982 to 2001. From 2005 to 2007, he was the Algerian Minister

[24]ID AT 105

[25]*SEE* THE ILLUMINATING DISCUSSION IN J.H.W. VERZIJL, I INTERNATIONAL LAW IN HISTORICAL PERSPECTIVE 3-8 (1968). ONE MIGHT NOTE THE VERY TITLE OF THE SEMINAL TEXT: H. GROTIUS, THE RIGHTS OF WAR AND PEACE, INCLUDING THE LAW OF NATURE AND OF NATIONS (A. CAMPBELL TRANS. REPRINT ED. 1901).

[26]J. AUSTIN, THE PROVINCE OF JURISPRUDENCE DETERMINED 140, 201 (1ST ED. 1954)

of Foreign Affairs. He also served, inter alia, as the Algerian Minister of Justice and as Dean of the Faculty of Law of Algiers. From 1965 to 1982, he was a member of the International Law Commission. He has also served as a judge on the International Court of Justice and as President of Algeria'shighest judicial authority, the Constitutional Council. He was appointed as foreign minister of Algeria on May 1, 2005 during a cabinet reshuffle, and remained in that position until the appointment of a new government on June 4, 2007, in which he was not included. He was replaced as foreign minister by MouradMedelci.

This great personality was born into a modest family in the year 1929 near Oran, west of the country. Initially he had a very good childhood but he was destined for something else. He becameOrphan at four years of age.He did not had the chance to know his father who subsequently died in 1933. He did not know that he will grow up in the suburbs of Tlemcen after he was collected by his maternal uncle who took good care of him. He met his wife, the late Leila Francis, whom he married in 1962. The uncle of his wife, Ahmed Francis is none other than the former finance minister of independent Algeria.He is the father of film director AmalBedjaoui .

Before starting his career, he was known as one of the applicants excluded communists entrance examinations at the ENA (National School of Administration). This discrimination was sanctioned in the famous Barel stop of the State Council (28 May 1954).

Before heading the Constitutional Council from 2002, Mohamed Bedjaoui was the President of the International Court of Justice in 1993 and Chairman of the Supervisory Board of the presidential election of April 15, 1999. During the War in Algeria, Bedjaoui was legal adviser to the FLN and the Provisional Government of the Algerian Republic (GPRA). He was also among the Algerian delegation at the Evian negotiations. He was appointed Minister of Foreign Affairs on 1st May 2005 to 4 June 2007 . He asked to be relieved of his duties for personal reasons and his request was granted. Before that, he held a ministerial post in the period 1964-1971. He was Minister of Justice, Minister of Justice affairs. After leaving the government, he was appointed Ambassador to France, with the UNESCO and the United Nations (1971-1979).

He was promoted Ambassador, Permanent Representative of Algeria to the United Nations in New York until 1982. During this period, in addition to that of being Vice President of the United Nations Council for Namibia and President of the Contact Group Cyprus, Mohamed

Bejaoui was co-chair of the United Nations Commission of Inquiry to Iran to release US diplomats held hostage in Tehran (1980). Holds several degrees, Mr. Bejaoui was a judge at the International Court of Justice in The Hague for nearly twenty years (1982-2001) and President of Chamber (1984-1986) and President of the Court (1994-1997).

Bedjaoui is the author of ten books that are authoritative in international law and those books are as follows:

- The Algerian Revolution and the Right,
- Conventions Treaties of Algeria,
- Non-alignment and international law,
- Terra nullius,
- Historical right and self-determination for a new international economic order.
- He gave three courses at The Hague Academy of International Law, the general course of public law in 2006.

He has written nearly 300 articles on public international law matters, contributing to improve the constitutional law, international commercial arbitration law and political science.

4.1 Role In delivering the Nuclear Judgment in the ICJ in the year 1996:

The International Court of Justice was asked to respond to certain legal questions concerning nuclear weapons, acting upon two separate requests to the Court for advisory opinions: one from the World Health Organization, on the Legality of the Use by a State of Nuclear Weapons in

Armed Conflict, and the other from the General Assembly of the United Nations, on the Legality of the Threat or Use of Nuclear Weapons.

The Court ruled first, on July 8, 1996, on the WHO request for advice. On July 8, 1996, the Court also gave its Advisory Opinion on the request from the General Assembly. In its resolution 49/75K of December 15, 1994, the question posed by the Assembly was as follows, “Is the threat or use of nuclear weapons permitted in any circumstance under international law?” The resolution asked the Court to render its opinion “urgently.”

With nuclear weapons, humanity is living on a kind of suspended sentence. For half a century now these terrifying weapons of mass destruction have formed part of the human condition. Nuclear weapons have entered into all calculations, all scenarios, all plans. Since Hiroshima, on the morning of 6 August 1945, fear has gradually become man's first nature. His life on earth has taken on the aspect of what the Koran calls "a long nocturnal journey," like a nightmare whose end he cannot yet foresee.

These were the words of Mohammad Bedjaoui while giving his views in the Nuclear Judgment case in the year 1996 in the International Court of Justice (ICJ). The turning point occurred at this time only when his majesty gave his views in support of the banning of Nuclear weapons or weapons of mass destruction. He was the part of the ICJ’s panel that discussed and issued that the use of Nuclear Weaponry is contrary to the rules and regulations of the “International Law”. While discussing this issue, the panel of fourteen judges got divided into the groups of seven on each side. Both the sides were having very strong arguments required to take a decision on the issue. Since both the sides got divided equally, the deciding vote goes to the President. And as a result, the vote of Mohammed Bedjaoui went in favor of banning the Nuclear weapons.

The panel discussed that although the use of nuclear weapons was generally in “violations” of the international law but they cannot conclude definitively, whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defense, in which the very survival of a state would be at stake.”

While deciding this case, there arose many complicated issues but out of all those there were two main issues which led to the deciding of this case and those issues were explained by Mr. Bedjaoui in a very eloquent manner. He stated that two main pillars of humanitarian law were

referred to in deciding that the use of nuclear weapons would constitute a violation of international law. One was the provision that weapons of any kind should not be used against civilians. The other was that soldiers should not suffer "unnecessary pain" from the weapons used against them. He then move on to explain the Article 6 of the Non Proliferation Treaty (NPT) The ICJ said that the only way to avoid this kind of situation, almost a Cornelian dilemma, a very difficult situation, is to remove nuclear weapons, the reason for the conflict. Therefore, let's see Article 6 of the NPT, and let's say we really have to negotiate, in order to conclude some treaty, to eliminate nuclear weapons. When those weapons are eliminated there will not be any conflict, any juridical contradiction, left. The obligation defined in Article 6 of the NPT is, in fact, a double obligation. It is not only necessary to negotiate in good faith, but also to reach a precise result, which has been defined as total and permanent nuclear disarmament. There exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control. The president is totally against the use of Nuclear weapons and not only the use but also the possession because both the use and possession of the Nuclear Weapons is like the crime against humanity. The court while giving their decision, also talked to the mayors of Hiroshima and Nagasaki and they were very much persuaded by their statements & contentions. These mayors stated about the devastating effects and inexpressible effects of the use of Nuclear weapons and the sufferings still prevailing in their states. Mr. President quotes many historical events and linked those events with the elimination of the Nuclear weapons. He stated that historical context was very important. We have to go back to 1946, and already then, after the war was over, six months after Hiroshima and Nagasaki, the U.N. created a resolution, the first resolution by the General Assembly, on Jan. 24, 1946. It was about the atomic bomb, and it says that we must create some commission in the U.N. to find the ways and the means to eliminate nuclear weapons.

Unfortunately, from 1947, the Cold War began, and this factor prevented efforts to get rid of nuclear weapons. However, the General Assembly adopted on Nov. 24, 1961, a very important resolution which sought the prohibition of any use of nuclear weapons. This resolution is extremely important, because it stipulates the condemnation of nuclear weapons, and it says that any state, which uses this weapon, perpetrates a crime against humanity and civilization.

But, as you already know, the General Assembly is suffering from a lack of authority, and is totally powerless. It's the parliament of the world but it can't take any resolution with compulsory significance. The General Assembly is different from the Security Council.

From this point of view, the General Assembly felt its lack of authority, and getting some frustration, especially on the matter of nuclear disarmament. Even conventional weapons disarmament was always discussed outside the U.N., between the Great Powers. The General Assembly, when it felt its own frustration, asked for an extraordinary session of the U.N. in 1978 on disarmament. And in 1982, four years later, another new extraordinary session, about the same subject, was held.

To be pitied, everything led to bitter failure. Why is that? Because the Great Powers, the Super Great Powers, were always negotiating among themselves, or didn't even negotiate at all.

The nuclear weapon is the product of the adventure, equally exciting and terrifying, of the scientific and technological progress that man has made.

Today, it looks like humanity is living on borrowed time because nuclear weapons have a specific nature and unique characteristics which give them a destructive power still unequaled. After this weapon had been used for the first time in Hiroshima and Nagasaki, Albert Camus said, "the civilization of the mechanics has reached its last degree of savagery."

The Atlantic Charter made the promise of "freeing man from fear," and the U.N. Charter swore "saving the following generations" from the curse of war. There is still a long way to go. Man stays, therefore, under the effect of a permanent and perverse blackmail. We have to know how to free him. Every one of us has the duty to take part in that life-saving work for humanity.

4.2 POSITIONS HELD BY MR. MOHAMMED BEDJAOUI

He has held the position of Advocate at the Grenoble Court of Appeal from the year 1951 to 1953 and work tremendously to achieve the targets. He was the Researcher at the Centre National de la Recherché Scientifique, CNRS, Paris, from the year 1953 to1956. He was also the

Legal Adviser of the FLN and the Provisional Government of the Algerian Republic (GPRA) from the year 1956 to 1962. He became the Expert of the Algerian delegation to the Evian Lugrin negotiations and for the independence of Algeria from the year 1961 to the year 1962.He has supervised the Staff of the President of the National Constituent Assembly in Algiers as the chief in the year 1962. He was the Secretary General of the Government in Algiers from 1962 to 1964. He was the Minister of Justice in Algiers from 1964 to 1970 and did a wonderful job.He held the position of Dean of the Faculty of Law of Algiers from the year 1964 to 1965. He was the Ambassador of Algeria in France in the year 1970 to 1979. He was the Permanent Delegate of Algeria to UNESCO from the year 1971 to1979. The Ambassador, Permanent Representative of Algeria to the United Nations in New York in the year 1979 to1982. The Chairman of the Group of 77 in New York in the year 1981 to the year 1982 and also the Vice President of the UN Council for Namibia in the year 1979 to 1982. He was theChairman of the Contact Group for Cyprus from the year 1979 to 1982. He was the Co-Chair of the United Nations commission of inquiry in Iran for the release of diplomatsAmericans held hostage in Tehran in the year 1980. He was the Member of the International Law Commission, United Nations from the year 1965 to the year 1982 and Special Rapporteur on "Succession of States in matters other than treaties" and he has published as many as 13 reports from 1967 to 1981.

He was the Member of the Institute of International Law since 1977 and he was the 1stVice President of the Institute Strasbourg, from the year 1997 to 1999 in Berlin 1999.He was the UN legal expert at the conference of plenipotentiaries Vienna Convention on Succession of States in terms of assets, liabilities and state archives, 1983.He was appointed in International Court of Justice in The Hague as the Judge for nearly twenty years (19 March 1982-20 September 2001): He was the President of Chamber from the year 1984 to 1986 and he was also the President of the Court from the year 1994 to 1997.He was the member International Bioethics Committee (IBC) of UNESCO from the year 1993 to 2000. He was also the Member of the Executive Board of UNESCO from the year 2001 to 2005. He was the Chairman of the Legal Commission of the General Conference of UNESCO in the year 2003. He was also the Finance and Administrative Commission of UNESCO was also Chaired by him in the year 2004. He was the President of the UNESCO Expert Group for the Elaboration of a Convention for the Safeguarding of the Intangible Cultural Heritage (2001-2003). He was the president of the Constitutional Council of

from the year 2002 to 2005. He was the Minister of State, Minister of Foreign Affairs of Algeria from the year 2005 to 2007. He is member of the sponsorship committee Russell Tribunal on Palestine whose work began on 4 March 2009.

4.3 AWARDS & HONORS

He was the winner of the Faculty of Law of Grenoble as he got **the first prize** in the area of commercial law, 1951. He was the **winner of the Carnegie Endowment for International Peace**, first prize in the International Organization awarded by the Carnegie Endowment for International Peace in the year 1956. He was the **winner of the Association of Friends** of the University of Grenoble in which he got the "**thesis prize**" in the year 1957. He got the Price of the **Franco-Arab friendship**, awarded by the Association of Solidarity with the Middle East, particularly Arab held in Paris 1979. He was **awarded World Diplomat Award** by the EW Thurston Junior High School, Westwood, Mass in the year 1981.He was appointed by several academies and learned societies as the member person. He was the Member of the jury of the "International Félix Houphouet-Boigny Peace Prize", given by the UNESCO, since the creation in the year 1991. He also **held Honorary Doctor of the Universities of Aix-en-Provence (France)**, Kuwait City (Kuwait), Completeness of Madrid (Spain), Carlos III of Madrid (Spain), Hyderabad (India), Brussels (ULB, Belgium), Bucharest (Romania), SidiBel Abbes (Algeria) and Seoul. He is **the holder of the "Maghreb Culture Prize"** awarded by the President of the Republic of Tunisia, on 27 October 1995. He was **awarded the Gold Medal Award of the Foundation of International Studies of University of Malta** in the year 27 May 1996.

He has **held honorary degree from the Academy of Romania** in the year 22 September 2004. He has **won Grand Cross of the National Order** of the Star of Romania Presidential Decree NO. 109 of March 9, 2004. He was also awarded **the Commander of the Legion of Honor, Paris** and also **the Presidential Decree** of 21 September 1979 and Grand Officer Presidential Decree of February 2005. He won the **Grand Cross of the Order of Merit** of Niger by the Presidential Decree of 14 March 2006. He also won **the Mediterranean Price of Naples**, 2006. He also holds other decorations including Order of Wissam Alaouite of Morocco in the year 1963, he has also won **the Order of the Republic of Egypt** in the year 1963. He has also won

Order of the Resistance in Algeria in the year 1984 and 2004 he also won the National Order of Mali in the year 1987.

ACHIEVEMENTS AND PUBLICATIONS:

Mohammed Bedjaoui is the author of over 300 articles on matters of international law, constitutional law, law of international commercial arbitration, political science, bioethics, etc, and ten books, including:

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5. CONCLUSION

Frederick Bastiat was of the opinion that is something is taken away which belongs to a certain person and given to someone else to whom it does not belong then in such a scenario the so called legal system fails miserably.

In the concluding chapter of this dissertation the Infosys is going to be on two things:

> *Is the international jury independent of political influences and secondly is Mohammed bedjaoui the best lawmaker of the international circuit.*

Keeping the first aspect in mind that whether the international jury is independent of political influences is a long running debate which has seen the best of the arguments in favour of the motion and against it as well. Many of the scholars have been of the opinion that the ICJ is independent of all political influences but in reality the scenario defers from what it should actually be. Taking a classic example of the nuclear judgment given by the ICJ in the year '96

, it can be very well assumed that lawmakers have passed on a golden opportunity to suspend the use of nuclear weapons for once and for all. Despite a very strong opinion against the use of the nuclear weapon, the ICJ could not stand up to its opinion and ensure that the world never experiences anything closely or even remotely to nuclear weapons. The underlining fact still remains that the western domination in certain aspects cannot be overlooked and they have been a very influential force in molding the thought process and the judgment making of international body such as the ICJ.

What one needs to realize that some of the international tribunals such as the US , Iran claims tribunal and the trade dispute panels which are formed under the GATT are "dependent" , in the sense that the parties which are involved in the formation decide upon the panel of judges and the presiding members. It's a given fact that if the judges and the presiding members go against the opinion of the state parties their services won't be rendered again. The Inter-American court of human rights and the ICC are "independent" in the sense that the judges and presiding members are elected from a neutral viewpoint and they serve a fixed term . It can be assumed that the independent tribunals where the appointment is fair and unbiased are better and more effective at resolving disputes as compared to the dependent ones but in reality it is the complete

converse. The dependent ones show a better performance rate. Another example is of the European court of justice which is considered to be a supreme body in the European circuit but is not considered to be a good model for international tribunals because of the last political and economic influences by the European state.

Over the last few years international dispute resolution has dominated international politics, the main aim has been to reach to a dispute resolution mechanism which is largely nonviolent. There has been a flurry of cases reported to international tribunals post world war II. One can realize the importance of these international law making bodies from the fact that their decisions are binding and not only political but economic issues are taking up as well, Multi-million dollar disputes are taken before these international tribunals in order for a completely unbiased and neutral opinion thus highlighting the fact that there is a large amount of faith entrusted in these bodies. For the maintenance of this faith, it is exceedingly important that these legal tribunal, especially the ICJ remains completely free of political influences.

The so –called binding nature of these judgments have been clearly neglected by certain western countries , a prime example is that he ICJ has issued multiple judgments against the United States with respect to the execution of foreign nationals.[27] Although the apex code of the United States and the other states which are involved have refused to push back the executions in order to allow international law claims to be raised, although scholars claim that this scenario might be changing, as was seen in Breard v. Greece [28] The domination of the United States and bullish approach can be seen from the fact that more than 100 nations have signed up for the ICC's judgment pledging themselves to bring war criminals to justice wherever they are found but announcing its superiority the United States has rejected the international court of justice underlining the fact that the ICC violates the due process standards and the rule of separation of

[27] LA GRANDE CASE (F.R.G VS. US) , 40 I.L.M. 1069 (JUNE 27,2001) , VIENNA CONVENTION OF CONSULAR RELATIONS(PARA VS. US), 1998 I.C.J 248 (APR.9).

[28] 523 U.S.371(1997); ADAM LIPTAK, MEXICO AWAITS HAGUE RULING ON CITIZENS ON DEATH ROW, N.Y. TIMES, JAN 16,2004, AT AI ("OKLAHOMA ATTORNEY GENERAL ASKED A STATE APPEALS COURT IN NOVEMBER TO STAY EXECUTION 'OUT OF COURTESY' TO THE INTERNATIONAL COURT.")

power , it has opted for various diplomatic methodology to immunize it's citizen from the court's reach.[29]

Prominent American jurist and scholars have criticized the formal international adjudicating systems claiming that it is against the American principles, Secretary John Bolton has even criticized the ICC saying that it is "an organization that runs contrary to fundamental American precepts and basic constitutional principles of popular of sovereignty, checks and balances and national independence."

Now talking about the western influence on the development of international law, it can be seen that the west has always been dominant in using their power and it can be seen here also in this field that the west has greatly influenced the international law and molded it accordingly to their need. They have molded the laws to that extent that suits them and their community. West has always played a great law role in development of law but the actual truth behind this is that they have done this not to develop the law not to help the other communities but, for the benefit of their own community.

Except for Islamic (Sharia) law, it appears to be all current national legitimate frameworks are situated in Western law, especially common and regular law, and global law additionally gets from Western law too. Quite a bit of this is because of the impact of pioneerism, genocidal malevolence executed by the West and White individuals. What is the impact of the chaperon squelching of all (recovery Islamic Sharia law) of the non-Western, non-white lawful customs? Particularly in universal law - what sorts of conceivably accommodating viewpoints could have been lost? Keep in mind: non-Western, non-white (non-white individuals) thought includes the thought about the larger part of mankind all through a large portion of history. That is a considerable amount of thought. "West is best" may not be correct

[29] SEE SEAN D. MURPHY, CONTEMPORARY PRACTICE OF THE UNITED SATES RELATING TO INTERNATIONAL LAW, 97 AM. J. INTERNATIONAL L.179, 200 (2003); SEE ALSO U.S. DEPARTMENT OF STATE'S OFFICE OF INTERNATIONAL INFORMATION PROGRAMS, COUNTRIES WHO HAVE SIGNED ARTICLE 98 AGREEMENTS AT HTTP;//usinfo.state.gov/topical/rights/law/03061209.htm (JUNE 12, 2003).

Consider the possibility that, say, African nations, as opposed to being run with Western law, were run with law built all the more emphatically in light of conventional African law and ideas from the way of life contained in their fringes. Like if in Somalia, the legitimate structure had been built with the Xeer framework, or maybe an adjusted structure to better meet the requests of living in the cutting edge world, formally as the top tradition that must be adhered to, rather than Western pioneer common law. (In Xeer, there is no incorporated legislative governing body, rather the law is developed naturally after some time) Would the nation have been exceptional off or more awful, or nevertheless? Note that Xeer still exists there, however is subordinated to Western whiteman law - I'm trying to say imagine a scenario in which the whiteman law were shot out from the photo. In the event that a focal classified arrangement of laws was vital, then what about if one were based drawing upon what had been developed and chosen through the indigenous conventions as the essential and focal wellspring of motivation rather than European common law?

Imagine a scenario in which, say, the West had, rather than egotistically attesting its prevalence over everything, took a gander at these sorts of customs all the more nearly and considered whether they may have had substantial focuses.

I likewise need to call attention to that this doesn't fundamentally suggest no part for Western lawful hypothesis in the theoretical world-that-didn't-come-to-be, however what I'm inquiring as to whether the numerous other legitimate customs that existed held power, however maybe experiencing adjustment yet not obliteration, underestimation, or subordination?

Likewise, does this strength of Western law make for an endless reverence of "white amazingness", everlastingly securing the predominance of "white individuals" over whatever remains of the world and hence guaranteeing that "individuals or shading" will never be "rise to in force" to "whites" thus racial and power equity will never be served

Thus the above written statements are just view of the author not imposing it on anyone that they should accept although the text being a little out of context but still it has some relevancy to this topic as it gives a brief idea about what has the western influence done to the international law and rather making the law democratic in nature it has turned to a west dominated law

Although Mohammed Bedjaoui helped in connecting the third world with the whole world but to some point he was not completely able to apply his principles that he wanted to apply thus making him successful to certain extent not completely. He helped in making a bridge between the third world and the rest of the world by not only delivering outstandly on the international level but also by contributing to the development of the international law in various ways. This not only opened the doors for suggestion from different juristic people from the third world but also helped the people from the third world to contribute to the cause of development of the international law. Although Bedjaoui did not wanted the introduction of nuclear weapons as he was completely against it but his narrow minded thinking did not let him think the importance of

Such thing and led him to think about it in a negative way which although in the present scenario is becoming true but only to certain extent. Bedjaoui contribution to the development of the theory of NIEO program is remarkable but when looking at the other side of that it can be seen that there was required a lot of improvement to the theory because it lacked the future concept i.e., the theory although good in nature but was only limited to the application in the present time when it was being evolved but as we know whenever a theory is developed it should be done in such a way that not in the present but also it has an applicability in the future because if that is not possible then what the use of developing a theory that has such a short span of life.

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