

The Conceptual Affinity of Weber's Substantive Rationality with the Humanitarian and Human Rights Decisions Issued by the International Court of Justice (Original Research)

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Extended Abstract

Introduction

Among legal sociologists who have paid special attention to the relationship between judicial decisions and social facts, Max Weber holds a unique position. He believes that judicial decisions, especially when they lead to the creation of patterns of action, should be characterized by rationality. He divides rationality into four categories: practical, theoretical, substantive, and formal. He also categorizes all social actions into four types: affective, traditional, value-rational, and means-end rational action. On the one hand, substantive rationality, which directs action towards a pattern based on a value principle, has the closest affinity with value-rational actions. On the other hand, moral and value concepts such as humanity, human dignity, and collective conscience have often been considered the legal basis for many court decisions and have even led to the creation of rules. The aim of this study is to explain and analyze the mechanism of aligning such decisions with substantive rationality and value-rational actions, in order to facilitate public acceptance of the International Court of Justice decisions that rely on the value principles of human rights and humanitarian law.

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Research Question

When the complexities of social facts in the global community are coupled with the fluidity of social phenomena and the diversity of forms of international disputes, international law faces a formidable challenge. Overcoming this challenge requires international law to be updated through structural changes, or at least a change in balance. This reality has driven the International Court of Justice towards a law-making role in the process of settling international disputes, relying on value-based concepts such as humanity, public conscience, dignity, and the like. Max Weber believed that the creation of patterns of action is successful when it is characterized by rationality, as well as when the sociological phenomenon is realized through the process of interpretive understanding. In other words, the creation of patterns of action by the Court, especially when based on the aforementioned value principles, the more they are in line with rationality, the more they will be compatible with the realities of the global community and, consequently, will be more widely accepted. The need for this compatibility is felt more strongly when we acknowledge the lack of strong enforcement of norms in international law, and when we accept public opinion and the global collective conscience as one of the most important guarantees of law in the international arena. The fundamental question facing this paper is whether a connection can be established between ICJ's Judgments pertaining to human rights and humanitarian law, and Weber's substantive rationality and value-rational actions, and what benefits would accrue from such a connection.

Research Methodology

The method of study in this paper is descriptive-analytical. Although this research has a theoretical approach, since its aim is to explain the conceptual coexistence of substantive rationality with ICJ's Judgments pertaining to human rights and humanitarian law, the research method is a combination of a case study (Judgments) and legal and sociological analysis (interdisciplinary analysis of these Judgments).

Key Findings

Inherent values such as justice, equality, and freedom, and concepts like humanity, the call of collective conscience, and the like, which are amongst Weber's four types of action are classified under value-rational action, can be considered as the most important intellectual foundations for the creation of patterns of action. These values are not necessarily reflected in legal frameworks or as codified regulations, but are primarily facts embedded in the collective human conscience that manifest under these titles. Value-rational actions, from Weber's perspective, have a conceptual affinity with substantive rationality. With this view, the Court's judgments in the area of human rights and humanitarian law, are linked to substantive rationality;

because the Judges, perceive the act of issuing a Judgment as a value-rational action aimed at fundamental values of justice and fairness, ensuring and guaranteeing principles of humanity, freedom, dignity, and the like, in a wise manner. Through a hermeneutic understanding of their social action, they provide a causal explanation for the creation of norms, patterns of action, and sometimes even rule-making in international law.

Among Weber's four types of rationality, it is substantive rationality that relies on value principles which, in terms of comprehensiveness, internal coherence, and content, are distinct from each other and indicative of human beings' innate capacity for value-rational actions. Ultimately, it is within this substantive rationality that the choice of means to achieve an end through values and the application of rational calculation to infinite values takes place. All these propositions can be observed in the doctrines of humanitarian law and human rights, which results in the congruence of the foundations of human rights and humanitarian law in the ICJ's Judgments, and the foundations of substantive rationality and its underlying value principles. Such a situation is applicable to many of the Court's Judgments that examples of which are mentioned in this article. These concepts, as values, extend a sphere of equality to states with different cultural, civilizational, and belief backgrounds, creating a basis for adherence to a set of common principles and, subsequently, rules applicable to concrete cases. The Judge of the Court, emanating from this very rationality, emphasizes this concept.

Participation in the Field

Theorizing in law, as a tool for ordering, advancing, and developing legal knowledge, creating a mental connection between legal phenomena, reasoned criticism, the opportunity to reject, affirm, and expand theory in the face of social facts, and so on, manifests itself. A global society is vibrant and dynamic when it provides a basis for the formation of flexible constructs to meet the growing social needs for order and organization. In such a long-term social process, the development of international law in a global judicial institution is an appropriate tool at the disposal of the International Court of Justice to develop international law in a desirable manner through an accurate understanding of social relations and in a natural and slow social process.

Implications and Applications

Analyzing the conceptual, mental, and empirical link between concepts such as humanity, the Martens Clause, the call of public conscience, human rights, humanitarian law, and the like in the Court's Judgments, with concepts such as value-rational action and substantive rationality in Weber's sociological thought, can facilitate the process of rationalization and, consequently, the universal acceptance of the Court's human rights and humanitarian law Judgments.

Conclusion

According to Max Weber, judicial decisions that are more compatible with social facts and are rational are more likely to be accepted. The Court's Judgments, especially when they lead to the creation of patterns of action and rules and regulations based on value principles such as humanity, human dignity, public conscience, and the like, will have a greater chance of global acceptance if they are rational. Weber links substantive rationality, which directs action towards a pattern based on a value principle, with value-rational actions. This paper concludes that there is a connection between the Court's human rights and humanitarian law judgments, which are based on value principles, and Weber's substantive rationality, and that a theoretical analysis of this can, while ordering, advancing, and developing the knowledge of international law, facilitate the acceptance of these Judgments.

Keywords

International Court of Justice, Max Weber, Substantive Rationality, Social Actions, Humanity, Martens Clause

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