

-- In the sphere of codification, therefore, the function of the International Law Commission is essentially that of a court; it has to find what the international law is and to present it in a precise and systematic form;

-- However, where there is a divergence of practice or views the Commission considers itself entitled either to choose among conflicting contentions, or, perhaps more reasonably, to formulate a solution which is in the nature of a compromise.

-- Again, an opportunity frequently occurs to examine existing rules of international law in the light of modern developments and to suggest such improvements as may be required in the interest of justice and increased social progress.

Ultimately the Commission's work must be combined with another function -- partly political in nature -- namely, the transformation of the products of its researches into international conventions for adoption by states. This is carried out by consultation with Governments and the eventual submission of draft projects for consideration by the Sixth (Legal) Committee of the General Assembly, which recommends the action that should be taken by the Assembly sitting in plenary session.

And here I might point out in passing that while the Legal Committee is the Sixth Committee of the United Nations General Assembly, and the First Committee handles security and political questions, under the League of Nations the situation was reversed. In the League the First Committee dealt with constitutional and legal questions and the last one with political problems. One unfortunate result of this change in emphasis has been that many items which have had important legal aspects have never come to the Legal Committee. Faulty drafting and ambiguity in the operative words of Assembly resolutions have been inevitable consequences of this.

The list of codification projects on which the International Law Commission has taken recent action includes, among other things, the law of international arbitral procedure and the regime of the high seas.

An obvious and primary purpose of law in international society is to afford a basis for the peaceful settlement of disputes. States have always been able to use international law effectively in this way by setting up a court of arbitration and Canada has employed international arbitration on many occasions, notably in the Trail Smelter Case and the "I'm Alone" controversy.

The importance of international arbitration, in my opinion, lies in these considerations:

-- the more important a dispute, the more important it is to have it settled by a fair tribunal. If it is not possible or desirable to bring it before the international Court, an arbitral tribunal is the logical course;