

Institutions internationales

Chapitre I- Les caractères et les sources du droit des relations internationales

Section I- Les caractères du droit des relations internationales

deux caractérisés, c'est un droit issu d'une pluralité d'auteurs, le droit interne un souverain. Et se droit n'est pas absolue il est relatif. Le droit international tourne autour des obligations, les états applique règles car ils sont acceptés.

§I- Un droit issu d'une pluralité d'auteurs

A) Comparaison des ordres juridiques internes et de l'ordre juridique international

Dans l'ordre interne l'état a un pouvoir de commandement, c'est le pouvoir normatif. Et les règles, les ressortissant doivent s'y plier, sous peine de sanction. Idée de contrainte. L'État est législateur et est gendarme, logique de verticalité. Ce modèle n'a aucun valeur au niveau international car y à la notion d'égalité souveraine, logique horizontale. Le droit international est un droit frustre, élémentaire, le droit essaie d'éviter une société anarchique et de régulier les friction entre les égoïstes= les états. Machiavel, juriste et diplomate, c'est le 1^{er} à dire que le droit international c'est la « droit des intérêts ». logique de coexistante, dans la logique d'intérêt bien compris, logique d'un contrat, je te donne et tu me donnes. Au commencement chacun est souverain, logique de limitation l'exercice de la souveraineté, pour coordonner les souveraineté. Repose sur le volontariat. Notion de pluralise, le droit international c'est forcément un droit pluralisme.

B) Une société internationale reposant sur le primat de la volonté souveraine des États

En droit international il y a pas de législateur unique, pas un seul auteur de la norme , il y a plusieurs normes et plusieurs obligations sur des pluralités d'objets. Il y a pas non plus de sanction, la notion central du droit international, c'est pas la sanction mais l'obligation. Si un état respect c'est pas par peur de sanction ou de la gendarmerie, il respect car c'est dans son intérêt et pour une question d'image, entretenir des relations, question de confiance. S'acquitter spontanément de ce qu'on a promis. L'obligation d'exécution de bonne foi, *pacta sunt servanda*= fonde le droit international, qui signifie les contrats doivent être exécutés.

§II- Un droit aux effets relatifs

A) L'opposabilité de la règle à l'application de laquelle on a consenti

L'opposabilité= Capacité de se prévaloir d'une règles. Si l'état n'a pas souscrit la règles est inopposable. Pour qu'une règles soit opposable il faut qu'elle soit consentie. Consentement expresse, obligation conventionnelle (traité). Mais peut ne pas l'être, consentement implicite comme avec la coutume. La coutume international, pratique appliqué et respecté par les états au fil du temps, ici c'est un consentement présumé. 1927 La cours permanente de la justice international, arrêt France contre Turquie, navire français coule accidentellement un navire Turque en haute mer, France appel la CPJI, mais ici c'est l'obligation coutumière qui prime.

Depuis la seconde guerre mondiale= règle de droit objectif :

-résolution du conseil de sécurité de L'ONU sur le fondement de chapitre 7 de la charte (agression, menace contre la paix) elle s'impose a tous les états sans qu'il ai préalablement à y consentir

-l'émergence de la notion ordre public international. Lié à la notion de jus Cogens, règles juridiques communes à l'ensemble des sujets de droit international auquel il est impossible

Institutions Économiques Internationales Éléments De Droit International Économiques

Michel Belanger



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Table of Contents Institutions Eacuteconomiques Internationales Eleacutement De Droit International Eacuteconomiques

1. Understanding the eBook Institutions Eacuteconomiques Internationales Eleacutement De Droit International Eacuteconomiques
 - The Rise of Digital Reading Institutions Eacuteconomiques Internationales Eleacutement De Droit International Eacuteconomiques
 - Advantages of eBooks Over Traditional Books
2. Identifying Institutions Eacuteconomiques Internationales Eleacutement De Droit International Eacuteconomiques
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals

3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Institutions Eacuteconomiques Internationales Eleacutement De Droit International Eacuteconomiques
 - User-Friendly Interface
4. Exploring eBook Recommendations from Institutions Eacuteconomiques Internationales Eleacutement De Droit International Eacuteconomiques
 - Personalized Recommendations
 - Institutions Eacuteconomiques Internationales Eleacutement De Droit International Eacuteconomiques User Reviews and Ratings
 - Institutions Eacuteconomiques Internationales Eleacutement De Droit International Eacuteconomiques and Bestseller Lists
5. Accessing Institutions Eacuteconomiques Internationales Eleacutement De Droit International Eacuteconomiques Free and Paid eBooks
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 - Institutions Eacuteconomiques Internationales Eleacutement De Droit International Eacuteconomiques eBook Subscription Services
 - Institutions Eacuteconomiques Internationales Eleacutement De Droit International Eacuteconomiques Budget-Friendly Options
6. Navigating Institutions Eacuteconomiques Internationales Eleacutement De Droit International Eacuteconomiques eBook Formats
 - ePub, PDF, MOBI, and More
 - Institutions Eacuteconomiques Internationales Eleacutement De Droit International Eacuteconomiques Compatibility with Devices
 - Institutions Eacuteconomiques Internationales Eleacutement De Droit International Eacuteconomiques Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Institutions Eacuteconomiques Internationales Eleacutement De Droit International Eacuteconomiques

- Highlighting and Note-Taking Institutions Eacuteconomiques Internationales Eleacutement De Droit International Eacuteconomiques
- Interactive Elements Institutions Eacuteconomiques Internationales Eleacutement De Droit International Eacuteconomiques
- 8. Staying Engaged with Institutions Eacuteconomiques Internationales Eleacutement De Droit International Eacuteconomiques
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Institutions Eacuteconomiques Internationales Eleacutement De Droit International Eacuteconomiques
- 9. Balancing eBooks and Physical Books Institutions Eacuteconomiques Internationales Eleacutement De Droit International Eacuteconomiques
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Institutions Eacuteconomiques Internationales Eleacutement De Droit International Eacuteconomiques
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine Institutions Eacuteconomiques Internationales Eleacutement De Droit International Eacuteconomiques
 - Setting Reading Goals Institutions Eacuteconomiques Internationales Eleacutement De Droit International Eacuteconomiques
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Institutions Eacuteconomiques Internationales Eleacutement De Droit International Eacuteconomiques
 - Fact-Checking eBook Content of Institutions Eacuteconomiques Internationales Eleacutement De Droit International Eacuteconomiques
 - Distinguishing Credible Sources
- 13. Promoting Lifelong Learning

- Utilizing eBooks for Skill Development
- Exploring Educational eBooks

14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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