International Law and the Concept of Peace in the International System

Francis Osadebamwen Osayi
Department of Political Science, , University of Benin
Corresponding author: francis.osayi@uniben.edu

Abstract

This study aspires to capture the evolution, operationalization as well as an appraisal of international law in the promotion of security and peace in the global arena. In furtherance of the study, the secondary source for data gathering was deployed to get the necessary information. There is no one who does not need the support and assistance of other person, which is the fact that no state is autarchy. The absence of absolute economic independence or self-reliance therefore compels the states to relate with one another in their abysmal drive towards economic, social, cultural and political satisfaction for their citizens. There are set of rules to guide the relationship among the states became expedient, in order to avoid or at the least, limit anarchy and chaos-a situation violent conflict hence, international law. It recommended that all issues of international law should be justiciable.

Keywords: International Law, International System, Peace, Security, Autarchy, Belligerency

Introduction

The origin of international law is traceable to several centuries ago with the Hellenic Civilization of the ancient Greece being the latest in that age. The Greek city-state system of administration which necessitated the relationship between each of the states and between the respective states and the outside world, have reasonable dose of international law. These relationships which are known as inter-municipal, evolves from old standing customary rules and norms of intra-state and external interactions of states with foreign countries for the interest of a common understanding. The age of Roman Civilization this though not too significant, formed the basis for the framework of international law. The Roman legal exploits influenced the European legal systems. The era of exploitation of Africa and America as well as the era of Reformation and Renaissance in Europe, led to the growth of international law. The 1643 Westphalian Treaty birthed the emergence of a plethora of states in Europe.

Quite notably, 19th and 20th centuries ushered in a great deal of revolution in the progressive history of international law. Some of the landmarks recorded include; the Permanent Court of International Justice (1921), the International Court of Justice (1946), International Law Commission (1947), the Geneva Conference on Law of the Sea (1958), the Geneva Conferences of 1961, 1963, 1968-1969 on Diplomatic Relations, Consular Relations and the Law of Treaties respectively and the Third United Nations Conference on the Law of the Sea (UNCLOS), 1973-1982. Other agreements that facilitated the growth and development of international law include regionally based agreements notably; the European Economic Community (Common Market) (1957), Organization of American States (1948), Organization of African Unity (OAU) (1963), Economic Community of West African States (1975), the Southern Africa Development Community (SADC) and the Association of South East Asian Nations (ASEAN) (Orobator, 2000).

The evolutionally history of international law is traceable to the pre-Grotian period when tribes like the Hebrews and Hindus were already relating internationally with some level of moral rules. Hugo Grotius was born in 1583 in Holland and took Degree of law at the University of Leydon at the age of 15. In 1609, he published 'Mare Liberum', in which he discussed the liberty of the seas, a rare area of interest of that time. In 1625, he published another work, 'De jure belli ac pacis' (On the Law of War and Peace). He became famous as a result of this latest work and by 1928, a total of 64 editions of his work, promoting the Science of Contemporary Law of Nations had been published. This was a major advancement in

international law which earned him recognition as the father of international law (Oppenheim, 1905).

Between 1590 and 1660, was a great Positivist and Oxford Professor of Civil Law, Richard Zouche who after 25 years of Grotius' De jure belli ac pacis, published a book titled' *jus inter gentes*' (Law between Nations), hence providing the term *inter* in international law as currently used. This earned him the name, second father of international law (Oppenheim, 1905). Subsequently, in the 17th and 18th centuries, several authors tended to channel their ideologies towards three major thoughts including, Grotius Naturalists, Zouche's Customary Law and the se-called Grotians who accept both the naturalist and customary laws. In the 1860s, the earliest effort was made to codify international law. An American jurist formed a précis in 1861 while Francis Lieber prepared a code for the Government of Armies which in revised form was used by the Union Armies in the Civil War and by Germany in the Franco-Prussian War of 1870-1871. In 1868, Bluntschli produced a more comprehensive codification, declaring that his intention was to formulate clearly, the existing ideas of the civilized world. In 1872, an American, David Dudley Field issued a draft outline of an international code and an Italian jurist, Pasquale Fiore published in 1889, a code which covered the entire arena of international law (Pasquale & Edwin, 1918).

Is International Law a Proper Law? Assessing the Problem

Following the emergence of international law, the concept has faced a plethora of issues that have almost defined it as an empty drum that makes the loudest of noise. Some of the questions that have bothered the minds of protagonists and the supporters since the inception of international law have been; is international law a proper law? What is the scope of international law? Who made the law? Who enforces the law and how is it enforced? What is its structure of international law? Do states obey the law? These questions have created more problems than the global issues of security and peace it is meant to address.

Some authors, particularly those that belong to the Austinian tradition have always argued that the term international law is an aspect of international morality, whereas some authors locate the problem at the root of definition, yet others validated the concept. The Austinians cannot be blamed because the ordinary man presumed that wherever and whenever there is injustice and violence, then the law is absent. Arising from this presumption therefore, it is worthy to mention that unlike municipal or domestic law, international law is inhibited in its operational area and the greater part of external relations did not fall within its neighbourhood. Whereas, the truth remains that international law should guide states' interaction but in real situation, traditional international law is applicable only to subjects that has been accepted by countries that it should apply to. Wars, imperial and colonial tendencies and economic discrimination may have been borne out of greed and aggressive desires, yet it didn't amount to abuse of or disobedience to international law.

It has been severally argued that international law is not a true law as a result of the fact that it has no coercive force that is, not binding. The truth remains that it is almost practically not possible to reconcile the sovereignty tradition with the issue of a law in which countries must be loyal irrespective of whether they like or did not like. However, some writers have avoided this contradiction by lending their support to what has been referred to as theory of consent which implies that, persisting that nations cannot be obligated to what they didn't consented to but once they give consent, they are duty bound without necessarily interfering in their sovereignty due to the fact that the restriction was accepted voluntarily. There is yet another school of thought who argued that countries enter the comity of states with the presumption that they agreed to its laws and that the continuous obedience of certain code of conduct means an implicit acceptance and affirmation of those codes. Yet, this contentious theory did not respond to the question as to whether states can be obligated against its will, if it is yes, what then happens to the sovereignty doctrine (Palmer & Perkins, 2007).

The expression and opinions of Thomas Hobbes and Jean Bodin, two great believers and promoters of absolute and unbreakable

sovereignty have been given a different rendition even though both of them didn't mean to guarantee global anarchy as some of their adherents have done. Sovereignty was advanced for the greater part by political theorists who care not about and paid little attention to state's interaction (Brierly, 1963). Practically, nations may be constrained by international law often against their consent but the law must rely on general approval of the comity of nations.

What is referred to as the Austinian tradition is the belief that law is a code of conduct that emanates from a higher power to individuals over whom it has legal rights. Going by this definition, international law is not a proper law because neither does any global organization or the UN has legal authority over individuals or any country for that matter. Some authors who insist in comparing national law with international law are of the firm view that the failure to have a unified executive, legislative and judicial authority nullified international law as a proper law. Thus, the reputation of international law is perennially denounced by individuals who believe that it cannot be a proper law because it is unexecuted (Palmer & Perkins, 2007). The key issue here is if international law is a proper or true law. Who made the law and when laws are made, who enforced them? Another critical challenge is the issue of non-violability of national sovereignty. As long as these issues remain unsolved, ensuring security, stability and peace in the global ferment will be a herculean task for international law.

Conceptual Clarifications

To achieve easier comprehension and appreciation of this paper, the author chose to clarify certain concepts like law, international law, peace, international system, belligerency and autarchy in the context of their meanings and usage in this study.

Law: Holistically, the concept of law may be applied properly to any public policy that gives authority to act or restrain from doing a class of acts and for the disobedience of which certain consequences may be justifiably expected by the person disobeying. It is through the instrumentality of law and administration that the state seeks to realize its purposes. Law is also the principal mechanism to ensure peaceful change. It is also the means to realize justice in the society. As such, law is the essence of the state (Chaturvedi, 2006). The state is both the child and the parent law. In the words of Eregha (1997), law refers to rule of right conduct in a state. Laws are ordinances, rules and regulations made either by the sovereign or elected representatives of the state.

International Law:International law is a body of rules accepted by civilized nations as defining their rights and obligations and the procedures for enforcing them. The rules which states observe in their dealings with one another are called international law (Iain & Alistair, 2003). International law is defined as the system which orders the relations within states. It binds them to mutually agreed and recognized principles. The sanction of international law, they say is auto-limitation which can be withdrawn at the will of the state (Chaturvedi, 2006). The term 'rules is rather a broad heading for the different types of moral principles like those of natural justice, traditions, customs, conventions, precedents, understandings, the principles or standards established by different treaties or agreements among nations, verdicts or decisions of international tribunals or courts and declarations of international institutions like the League of Nations and the United Nations. In their own definitions, international law is a set of rules generally recognized by civilized nations as governing their conducts towards each other and towards each other's citizens (Iain & Alistair, 2003).

International law is that body of law comprising principles, regulations and rules to which states adhere or are compelled to adhere, and as such, are commonly observed by the states of the global community in their interaction with one another. It also deals with the functioning of international organizations both in their internal and external relationships (Orobator, 2000). Similar, it has been referred to as a body of rules and principles of action which are binding upon civilized nations in their interaction with one another (Eregha, 1997).

Belligerency: It is the condition or status of the parties to be at war. In the global context,

belligerency implies a formal declaration of war or even a conditional declaration by way of an ultimatum (Chaturvedi, 2006). It is a concept that is deployed in international law to demonstrate the standing or position of two or more bodies, mostly sovereign nations that are involved in conflict. Usually, wars are fought with both or either of the entities at war declaring under United Nations (UN) Charter, Article 51, the right to self-defence. For instance, In the Falkland conflict of 1982, United Kingdom invoked this article (Gibran, 1997). This can also take place under the authority of a resolution UN Security Council such as resolution 678 that authorized the Gulf War. A belligerency situation can also happened between one or more sovereign nations and rebel group if such group is granted recognition as belligerent. If however, there is an uprising against a legitimate authority, that is, a government recognized by the UN, and the actors in the rebellion are not considered as belligerents, then it is insurgency. But once there is an established belligerent position between two or more nations, their interactions will then be considered and administered by laws of war (Hugh, 1911).

Thus, Belligerent is a person, group of persons or state or other entities that behaves in a cruel manner like involving in war. It is a concept that derived from Latin word, *bellum gerere* which means commencement of war. Contrary to the usage of belligerent in an adjectival sense, to mean, aggressive, its noun usage does not mean that belligerent is an aggressor. In war time, belligerent nations may be contrasted as non-belligerents or neutral nations. Nevertheless, the description of the law of war in relation to neutral states and the roles of belligerents are not influenced by contraction between impartial nations, impartial powers or non-belligerent (Erik, & McKercher, 2003).

Autarchy: When a state attempts to be self-sufficiency by bending all forms of trade and relationship with other nations of the world, we can say that such nation is autarkic (Iain & Alistair, 2003). In other words, it is a system that promotes economic, social and cultural self-sufficiency.

Peace: Interestingly, in the study of conflict and peace, a lot of persons have often seen peace in contrast to war that is, war is the absence of peace while peace is the absence of war, which according to Shedrack (2009), is a reflection of the expression of the myopic. However, to most philosophers, peace is a natural original god, considering the state of the existence of man. Therefore, arising from this philosophical view point, peace can be described as the pre-occupied state of human in the society as it is created by God. In distinguishing between two cities, which St. Augustine referred to as the City of God, that is established in a perfect realm of peace and spiritual salvation as well as man's earthly city that is established on impulses that are possessive and appetitive, torn by conflict and is corrupt. Jean Jacque Rousseau described the peaceful original status of existence of mankind in which there is absence of desires. The Utilitarians and Hedonists opine that mankind desire happiness inherently and stay away from pain.

In sociological terms, peace is considered as a state of social harmony in which there is absence of social dissension. This means that peace is a state wherein there is absence of social conflict and which persons or group of individuals are able to meet their daily desires and needs (Terwase, Sambo, Atime, Nfor, Samuel, Onwuanibe, Mijinyawa, Kachalla, Nuhu & Anyam, 2023). According to the University of Peace while stating its position, peace means a political situation that ensures the possibility of justice. To put it more broadly, in political term, peace means political directive, implying the domestication of political structures (Shedrack, 2009) while Huntington (1968) defines institutionalization to mean that political structure acquires stability and value.

International System: It refers to a practice or belief that states should relate in an harmonious way. It means that something is connected with or has to do with two or more nations (Hornby, et at, 2006). It refers to a congregation of countries, organizations and persons that relate on the global scene. It is a part of international relations that highlights those who relates and with whom to relate, the manner they relate as well as hat made up the rule of engagement. The international system is a point of congregation

of states across their various frontiers as they attempt to project their national interests and values which in most cases is in conflict with those of other nations, guided by a set of mutually agreed rules known as international law. Also, it can be described as a network of global congregation `of individuals, ideas, natural world, organizations and rules. It involves a plethora of social, political and economic relations that knit these parts into a larger part. As it is in every system, it is made up of structures and actors.

Sources and Subjects of International Law: A Theoretical Statement

The sources of International law consist of those materials from which the law is determined and interpreted by experts in the field. These sources include customs, Treaties, Arbitral Tribunals or Judicial Decisions, Juristic works and Decisions or determinations of the organs of international institutions or of international conferences (Orobator, 2000). On the subject of international law, there is a plethora of them and it involves persons or corporate bodies and legally constituted states that can be held responsible or that can participate in international law. These subjects are recognized a having rights and duties and act with legal consequences. According to Eregha (1997: 76-77), they include;

i. **State**: Article 1 of the Monteride Convention of 1933 on the rights and duties of states signed by some states enumerated the following as significant features of a states; (i) a permanent population (ii) a defined territory (iii) a government (iv) a capacity to enter into relationship with other states. Any state possessing these characteristics is a sovereign state with legal status which can sue and be sued and thus, a subject of international law.

ii. **International Organizations:** This wasestablished by treaties which define their legal status, personality, organization, mode of operations, functions, ethics and punishment of the organizations, are subjects of international law. Such treaties establish them as legal entities in international law. Customarily, the Holy See and sovereign nations were the only subjects of international law but with the rapid spread of global organizations over the past 100 years, they have been acknowledged as significant parties (Klabbers, 2020). The international organization's year book highlights the list of global organizations that comprise of World Trade Organization (WTO), International Monetary Fund (IMF), UN and World Bank (Mueller, 1997; Klabbers, 2013). In general terms, organization comprise of a plenary organ, where countries that are members are represented and heard; administrative organ which dealt with roles of the secretariat and enforce the resolutions of other organs and the executive arm which take decisions on issues within the organization's jurisdiction (Klabbers, 2020). They have powers to enter into any treaty relying on the Vienna convention on the law of treaties between international organizations or between states and international organization even though it is not yet enforceable. Also, they have the power to bring legal issues against countries so long as they have the rights as contained in their constitution (Brownlie and Crawford, 2012).

iii. **Corporations:** operates nationally or multi-nationally, operates transnationally with laws that are international and thus subject of international law.

iv. **Individuals:** who break international law such as, pirates, terrorists and even individual state actors who commit genocidal crimes, war crimes and crime against humanity and peace are punished even if they claim to have acted on behalf of the state and as such, subjects of international law. This explains the reason former Iraq leaders; Saddam Hussein was tried, convicted and hanged according to the dictates of international law.

   a. From history, individuals have not been considered within the sphere of international law, as entities because the attention has been on states interaction with each other (Brownlie&Crawford, 2012;

Klabbers, 2013). However due to the significant nature of human right on the international arena and the codification by UNGA of the 1948 universal declaration of human rights, individuals now have the power to stand before judicial bodies to defend their rights (Klabbers, 2013). On matters relating to national law, international law is basically silent except on issue that has to do with dual nationality or in the vent that somebody is demanding rights under the toga of refugee law but as it is argued, oftentimes, human rights are linked to nationality of individuals (Klabbers, 2020). People who feels that their rights have been abused and the national courts have failed to intervene, the European court of human rights gives such person the right to petition, similar powers are granted to African court on human and peoples' rights and the Inter-American court of human rights (Klabbers, 2013).

v. **Treaty:** In article 2 of Vienna convention on the law of treaties, a treaty is conceptualized as a global decision which in written form was adopted between countries and administered by international law whether composed in a unified, two or more connected instruments and whatever its specific description (Gardiner, 2008). This definition states specifically that those involved in the agreement must be countries, nevertheless, global organizations are being thought to have the ability to negotiate treaties (Gardiner, 2008; Brownlie and Crawford, 2012). Treaties bind parties through the *pacta sunt servanda* (agreement must be kept, without this, no global agreement will be executable or binding) which enable countries to develop formal commitment through assent, on themselves (Klabbers, 1996; Brownlie & Crawford, 2012). The Vienna convention on the law of treaties which codifies a lot of critical rules on interpretation of treaties, explains that a treaty shall be explicated in good faith in line with how the treaty is defined within its aims and objects (Dothan, 2019). It is only through validation, consent, instrument exchange, accession or signature that a country can give its approval to be bound by a treaty. If it is stated in the treaty that it can only be approved through validation, approval or consent, parties must append their signature as a proof that they accept the choice of words however, it does not requires of a country to sanction the treaty in due course even though in certain obligations, they can still be subjects (Evans, 2014).

The Subject Matter of International Law

The subject matter involves the areas covered by international law and a detailed understanding of the issue can best be appreciated by studying the international law commission that listed 25 topics in the field, which was prepared at the early stage of the work of the commission. These areas include; (1) subjects of international law (2) sources of international law (3) obligations of international law in relation to the law of states (4) fundamental rights and duties of states (5) recognition of states and governments (6) succession of states and governments (7) domestic jurisdiction (8) recognition of acts of foreign states (10) obligations of territorial jurisdiction (11) jurisdiction with regard to crime committed outside national territory (12) territorial domain of states (13) regime of the high seas (14) regime of territorial waters (15) pacific settlement of international disputes (16) nationality including statelessness (17) treatment of aliens (18) extradition (19) right to asylum (20) law of treaties (21) diplomatic intercourse and immunities (22) consular intercourse and immunities (23) state responsibility (24) arbitral procedure (25) laws of war (United Nations, 1950).

Having explained the 25 areas of international law, it is proper to explain what international law really is. By way of definition, it is seen as the nomenclature given to the body of rules (conventional and customary) which appears to bind civilized nations in their

relationship with one another. Simply, a law for states' interaction and not for persons, a law that is not above but between single states (Oppenheim, 1905). International law comprise of certain regulations that relates to human interaction across the globe to which human generally complied with and executed through the institutions of government of independent nations on the basis of which mankind is divided (Stowell, 1931). It is generally seen as law that applied to relationships between nations though all through the years, there has been increasing opposition to this traditional conceptualization because humanity is fast becoming subject of international law, meaning that the law of states is applied to persons as they interact with states and even to certain individual relationships (Jessup, 1948). Attention was also drawn to the increasing significance of trans-national law which emerged as a result of escalation of institutions in a formal and informal nature and of actions that transcends national frontiers (Jessup, 1956). A body of regulation that is adopted by comity of nations in general as it defines their rights and the channel of procedure through which those rights are preserved or their abuse being remedy (Fenwick, 1924). Nevertheless, the comity of states in general is divided in several ways and the customary international law which is the making of Western civilization is considered with severe misgiving in communist states as well as severe suspicion in developing nations of Africa and Asia (Palmer and Perkins, 2007).

The Role of International Law in the Maintenance of Peace in the International System International Law, also referred to as law of nations, performs the following role as explained by Adeniran (1983) in Eregha (1997: 70);

First, internal law minimizes friction between states. This is carried out through the law of peaceful coexistence by which a state, strong or `weak, cannot exercise authority within the jurisdiction of other states without the state's authorization (Orobator, 2000). Within a territory, each state is sovereign. The emphasis on the sovereignty of states realized by the Westphalia treaty in 1648 is a booster to this very significant role of international law in the global system. For instance, the erstwhile oppressed states in Europe had their freedom, peace and basic rights reinstated to them through the instrumentality of international law courtesy of the aforementioned treaty (Orobator, 2000). For example, border laws and the law of the sea regularly remind each country of their borders so as not to commit trespass which amounts to gross violation of the sovereignty of other nations. This to a great extent prevents global crisis between and among nations of the world (Eregha, 1997).

Second, in the global system, international law assists in the settlement of dispute among and between nations. Nations operating at the global level do sometimes be at loggerhead with one another for several reasons. International law performs the role of settling such dispute through the instruments of good offices, mediation, negotiations, arbitration, adjudication, conciliation and inquiry. Negotiation has to do with bringing the parties to a dispute to the table for discussion. Good offices involve trying to convince the disputed parties to accept peaceful settlement of the dispute. Inquiry is carried out through the establishment of Commission of Inquiry find out certain facts that will be helpful in resolving the conflict. Conciliation involves getting the parties to present themselves before a panel or commission who will from them and make peaceful recommendations on how to resolve the issue (Terwase, Iligh, Asogwa & Gbasha, 2019).

Mediation has to with bringing an unbiased third party that is accepted by all parties, to resolve the dispute (Puldu, Terwase, & Umoh, 2019). Arbitration implies the settlement of dispute between nations, based on mutual choice on the basis of respect for the law but the arbitrators awards are not always binding on the parties unless there is a prior agreement to that effect. This is often the preferred option due to the fact the parties in dispute sometimes chose an arbitrator and it also saves time. Adjudication is a type of procedure that is done by the courts or tribunals. It is mostly done by a permanent tribunal with specific number of judges appointed by the General Assembly or Security Council of the United Nations. Their judgment is mostly determined by law. Examples are the International Court of Justice (ICJ) or International Criminal Court (ICC). In modern

international system, negotiation is the mostly frequently used method of international dispute (Eregha, 1997).

Third, international law facilitates cooperation between and among nations of the world. The no-autarchy or needy status of every nation, that is weak or strong, large or small, developed or underdeveloped; compelled all nations to want to interact with others so as to achieve set goals. The enabling environment is provided by international law. International trade is regulated by international law that is anchored by the World Trade Organization (WTO). All countries of the world irrespective of race, languages, culture and religion, relate and cooperate; through soccer by the rules established by Federation of International Football Association (FIFA); through athletes by International Amateur Athletics Association (IAAF); for the purpose of finance, it is the World Bank and International Monetary Fund (IMF); while on issue of health, it is the World Health Organization (WHO), etc. Technology transfer, youth and cultural exchange of programme between and among countries, are propelled by international law. Religious institutions like churches, mosques and other faith based institutions are able to spread globally. Religious crusades holds from one nation to another, pilgrimages are made to Holy lands and sites from across the globe; the global spread of multinational corporations like Coca Cola, Julius Berger, Exxon Mobil, Elf, Shell Petroleum Development Corporation, Guinness, etc as well as aforementioned level of relationships either privately, publicly or corporately, are made possible by international law (Eregha, 1997).

Fourth, international law protects the individual. For instance, the law guarantees diplomatic immunity and privileges for Ambassadors, consular including all ambassadorial staff of every other nation residing in its domain. They are not bound by the laws of their host nations and cannot be tried by such laws except with the consent of the foreign states they represents. Also, they are not subject to security checks and screening at the airports and borders of other nations. In addition, private nationals, investors and their investments are protected by international law. Cross-national marriages and global club sports which allows footballers basketballers and other athletes of African descent and other nations in Europe and America, to leave their countries and maximize their God-given talents in other countries of the world, are all made possible by international law (Eregha, 1997).

Fifth, international law serves as an instrument of public relations and propaganda. For example, when Haiti was hit by a devastating earthquake that claimed several lives and destroyed numerous development and critical infrastructures, the Haitian hospitals could not cope with the multitude of casualties. The Haitian government was overwhelmed by the severe humanitarian crisis that erupted therefrom, as millions of people were internally displaced and dire need of shelter and food. Through the tool of international law, the President of the United States of America, Under Barack Obama, led the world to redeem the situation. The Haitian government had to hand over its only airport to the Airforce of USA for the supply of social, medicals and food to the dying population (Eregha, 1997). A mobile hospital from USA was swiftly moved to Haiti with the deployment of manpower to treat the survivors. Also, in Nigeria, the federal government donated $1million to support the victims; Fashola led government of Lagos state made its own donation of $1m while Late Prophet TB Joshua donated an airplane loaded with rice, beans, clothing and other materials and items to the victims. This level of public relations among states and individuals, being their brothers' keepers across national and continental frontiers, is made possible by international law. By way of propaganda, a state is able to make another state behaves or not to behave in certain ways. Exaggeration and image laundry are instruments of propaganda, The military might of a nation may be magnified or over bloated by the magnitude of power display in television and other electronic devices such that a belligerent, insurgent or prospective invader will abort its plan with the belief that the propagandist has a superior power. This means of power balancing and deterrence is also allowed by international law. Countries are able to build up and project their national image to others through political, economic, cultural and social interactions. The global interactions that that finds expression in the interventionist

activities of the International Red Cross, USAID, FAO, etc are typical examples (Eregha, 1997).

Sixth, internal law has brought about stability in the behavior of countries and individuals. The respect for state sovereignty, weak or strong, allows nations and individuals to learn how to act in certain way so as to promote their national and personal interests. Nigeria rescinds its membership of the Commonwealth of nation to protest the White Supremacists, oligarchious governance in South Africa. The sovereign consciousness gave Nigeria the political muscle to bluff her erstwhile colonial master in solidarity with her fellow African. Thus, the tendency of countries to behave, act or react in certain ways which are predictable, has become obvious or stable in the consciousness of sovereignty which is provided by international law (Eregha, 1997).

Seventh, on a personal note, international law serves as means of checks and balances for extremely ruthless regime. The domination of interstate relations by the old Roman Empire, were characterized by leaders who killed, maimed and dehumanized perceived opponent and enemies in the excuse of acting in state's interest. Again, during World War 1, the German leader, Adolf Hitler, committed series of war crimes and anti-human havocs, which was shielded in statehood, that is, claiming to act in the interest of the country (Germany). Ruthless tyrants executed their blood thirsty agenda without facing any trial or punishment; however, international law intervened significantly when after World War 2, the Nuremberg Crimes Trial dared to bring to justice, individuals and groups that committed war crimes and crime against humanity.

This raised the question of liability of individual actors of the state under international law in a dramatic fashion. Initially, the allied nations never believed in the possible trial and punishment of Nazi warlords by the international tribunal for war crimes, crimes against peace and humanity. Several objections were raised, one of which include the fact that individuals cannot be subject of international law, thus, the law was in a situation of ex post facto. However, at the London agreement of August 8, 1945, France, USA, USSR and Great Britain established an international military tribunal, agreed on a charter that will guide it afterwards, went ahead to try the perpetrators. The charter of the Nuremberg tribunal was adopted by the United Nations General Assembly (UNGA) and later demanded that the international law commission should established the principle of international law that was agreed in Nuremberg trial charter as well as the tribunal judgment. The commission later established and highlighted seven principles which declared individual roles under international law (Eregha, 1997).

It was briefly stated as, denied the immunity of high officials of government and of individuals under authority when a moral choice was open and explained the crimes that can be punished under international law. Even though the Nuremberg trial legality was still an issue of disputation, the truism is that a large number of the Nazi war perpetrators were hanged to death. The convention on the prevention and punishment of genocide that was adopted by UNGA in December 1948 lend credence to the possibility of international penal tribunal, 'upon passage by the UNGA', a request was made to the international law commission too look at the desire and possibility of a crime chamber of the ICJ (Eregha, 1997:292). An example was the arrest, detention, trial, conviction and hanging of the deposed leader of Iraq, late Saddam Hussein for offenses that bothers on gross violation of international law as well as the international arrest warrant issued on Joseph Koni of the Lord Resistant Army, President Omar Al Bashir by the International Criminal Court (ICC). This obviously is a tacit reminder to all leaders that be it in office or out of office, they must give account for their stewardship and be punished for war crimes and crimes against humanity that was allegedly committed by the state.

Limitations of International Law

Despite its huge role and significance that has so far been explained in this study, there are crucial limitations of international law which include;

Firstly, the legislative role is incomplete: realizing that treaties and customs are key sources of international law and since most of the customary laws are in codes, and with the regularity of international conferences which serve as opportunity for several countries to be

insistent in giving their express approval for the acceptance or rejection of treaties, international agreements and obligations before the consideration of compliance, treaties have thus become the main source of international law. In the last century, several countries have been having regular conferences so as to reach and sign treaties. Although codification implies the transformation of customary laws into official statutes, sorting of customary laws on specific issues including bringing them as a whole to official statutes followed by the interpretation of each item clause by clause which obviously leads to disagreements, rejections and possible withdrawal by nations that had hitherto accepted. This unending pattern of legislative structure of international law is a major inhibition (Palmer & Perkins, 2007).

Secondly, Judicial Inhibitions: for several aspects, international law is executed by national courts. An offended or injured person in a foreign land may decide to get justice in a local court while expecting to get the magnitude of justice that is assured by international law. If the person felt that he has been denied justice, he may decide to express his feelings to his home state which may thereafter involve in negotiation for global adjudication or some form of unfriendly pressures. Not until ICJ was created, global adjudication was carried out by an individual or body that was specially chosen. Another aspect of judicial restraint is the fact that technically, local courts are at liberty to reject the verdicts of international law on each other and even the judgment of ICJ. The rationale behind this is the fact that the ICJ is not covered by legal doctrine *stare decisis*, that is, the obligation to ascribe to precedence. Other parts of judicial constraints has to do with lack of compulsory jurisdictions, ambiguity of the law, appointment of international law subjects like judges, makes the institution both the interpreters and executors of international law. This situation give room for biases and pranks since there is no check and balance.

Thirdly, executive role constraints: the obvious truth is that no provision has been made for global enforcement agency of any type. It only provided for countries that are injured certain right of action to seek justice but gave no individual the right to act. The 1950s Korean crisis saw the UNSC sourcing aids from every quarter instead of been specific on what member nations would as a matter of obligation, provide. In spite of the covenant of the League of nations and later the charter of the UN, Philip Jessup opined that the traditional official roots of unilateralism have stood firm. He enthused further by quoting Elihu Root who stressed that if national laws are to be binding, the theory must be dynamic and abuse of law of such characters that will threaten the order and peace of countries must be seen as the violation of rights of all civilized countries (Jessup, 1948). Matters that relates to trade, immigration, refuges and naturalization are seen as that of sovereign nations.

Fourthly, another restraint on international law is its limited scope in what has been described as 'narrow range'. In what has been seen as one of the crucial limitations of the system, it was argued that the laws in general are observed fairly well due to the fact that the demands imposed on countries by international law are generally unburdened. It was described for instance, the entire area of economic relationships as that wherein individual nation has total control over issues that mostly lead to global disputations. Others include forms of government choice, naturalization, immigration as well as the way a country treats its citizens. In essence, law will hardly play effective role in global relations unless it is able to forcibly take over issues which are presently located within the purview of different countries (Brierly, 1963). Truly, the coverage of international law is more than it is presumed from the little discourse on where it is located within international relations. To point out that definite aspect of inter-state interactions are currently outside of the range of international law is not meant to reduce the significance and number of those that are inside already (Palmer and Perkins, 2007). Essentially, it is a doctrine of established international law that it is concerned only with between nations and not between nations and individuals or between persons (Jessup, 1948). To give a legal rationale for the rectification or restitution of the erroneous treatment of an individual, a country is legitimately empowered to react because an injury to a person is an injury to the country. The country is the only legitimate entity that can receive damages and render compensation to

the victim if it so wishes. Nevertheless, this rule that international law is only between nations has had exception for long especially on matters relating to piracy (Palmer & Perkins, 2007).

Differences between International Law and Municipal Law

First, Municipal or domestic laws are without doubt concerned with the ordering of persons within the jurisdiction of a particular nation while international law focuses on several states and governments. That means, municipal law regulate community members while laws in the global arena are unclear due to the fact that it is devoid of judicial, executive and legislative structures.

Second, municipal laws are made at the top and moved downwards to citizens who occupy the bottom, for execution. The citizens don't ask question about such laws because it emanated from the parliament that is empowered to do so whereas in international law, nations are equal with equal votes though, some are more superior.

Third, at the global stage, states observe and implement laws on concessional ground, that is, if it has no negative consequences on their national interest, they concur while at the level of municipality, compliance is necessary.

Fourth, what makes up the global community are international organizations and their agencies as well as individuals countries whereas, domestic community is composed of corporate bodies and other legally acknowledged institutions (Eregha, 1997).

Also, the friendship and interaction between global law and domestic laws is found in the monism and dualism theories. Monism implies that international and municipal laws are one and similar law system (Orobator, 2000). Notable author on monism, like Hans Kelsen in his pure law (Reine, Rechtslehre) (1934) who is of the belief that every law should be within a unified entity and composed of legal regulations that are binding and obligatory on every country, persons and entities (Langford & Bryan, 2012).

Furthermore, international and domestic or municipal laws are two distinct and different laws. On this, authors like Triepel and Anzilottiin their work on dualism argued that international law handle issue such as '*pacta sunt servanda'*, which means respect for agreements between nations while national laws are guided by the principle of respect for domestic laws as legislated by each country. They opined that essentially, international law as treaty and customary rules whereas national laws comprised of municipal laws that are made by judges as well as legislated statutes.

Conclusively, there are other scholars Joseph Kunzwho disagreed with Kelsen's argument. They are of the belief that international law is supreme and thus has edge over municipal or national laws. They opined that countries are duty bound to bring their body of rules (constitution) and domestic laws within the neighbourhood of internal law and that whatever happens internally in a country has no effect on its global obligations.

However, it must be note that these two theories, dualism and monism, are the major theories for the explanation of the relations between municipal and international laws but only different in areas of subject matter, sources of the law and its subjects.

Conclusion and Recommendations

This paper has unveiled among other things, the truism that despite the several odds or restraint on international law, it remains the antidote to the ever occurring clashes of national interest of countries, corporations, individuals and global organizations as they converge on a daily basis in the ever huzzling and buzzling ground of the global arena. Since there is nobody that is an autarchy, everyone must spread beyond its boundaries to interact with others in order to better the populace and itself with international law setting the rules of the game. In my considered opinion, international law is the pillar of peace and security that knit together, the heavily conflicting walls of the global community as a globe, one law and one justice for all. I believe strongly that all other strategies for the promotion of global peace and security like the balance of power, diplomacy, deterrence, collective security, peace keeping, peacemaking, nuclear nonproliferation and alliances, all derives their strength from international law. In synopsis, the extent of cooperation, security and peace that has so far been achieved in the global arena is determined by and credited to the magnitude of formulation

and implementation of internal law at any given time hence, without international law, the global system will be devoid of security and peace.

In view of the countless importance and relevance of international law in ensuring the promotion of global security and peace between and among countries of the world, individuals, corporations and global organizations in the international system, the following are strongly recommended;

The UN and other regional bodies should make effort at ensuring that all issues of international law are justiciable in order for its subjects like individuals, international organizations, states and corporations will be under legal obligation to obey and respect all provisions of international law instead of countries hiding under sovereignty to optionalize compliance of international law. Attempt should be made to create a truly representative platform or organ of the UN as well as other regional bodies for the specialized function of law making as it is in various nations. This will transform treaties, agreements, customs, principles, judgment and rules at international conferences and tribunals/courts into full legal framework of law that will bind all known and recognized actors in the global arena. Similarly, fully representatives specialized enforcement organs both at the UN and regional level should be created for the major aim of enforcing international law in full scale. The judicial organ such as the ICJ and ICC as well as others that may be hereafter established, should be strictly dependent on representatives from nations so that all sovereign states, weak or strong, power or rich, will have the sense of belonging and promote a truly community spirit in the global system.

References

Brierly, J.L. (1963). The Law of Nations (6th ed.). New York: Oxford University Press.

Chaturvedi, A.K. (2006). Dictionary of Political Science. New Delhi: Academic Publishers.

Eregha, E.E. (1997). Studies in International Relations: Political Science Series, Vol. 2.

Erik, G and McKercher, B. J. C. (2003*). Power and stability: British foreign policy,1865-1965*. Abingdon: Routledge.

Gibran, D. K. (1997). The Falklands War: Britain Versus the Past in the South Atlantic. Ames, Iowa: McFarland.

Hornby, A.S.; Wehmeier, S., Mclintosh, C., Turnbull J. and Ashby, M. (eds.), (2006). Oxford Advanced Learners' Dictionary, 7th Edition. New Delhi: Oxford University Press.

Hugh, C. (ed.) (1911). Belligerency . Encyclopedia Britannica*Vol. 3 (11th ed.). United Kingdom: Cambridge University Press.*

Huntington, S.P. (1968). Political Order in Changing Societies. London: Yale University Press.

Iain, M. and Alistair, M., (eds.), (2003). Oxford Concise Dictionary of Politics. New York: Oxford University Press.

Jessup, P. (1948). Modern Law of Nations. New York: Macmillan.

Langford, P. and Bryan, I. (2012). Hans Kelsen's Theory of Legal Monism: A Critical Engagement with the Emerging Legal Order of the 1920s. *Journal of the History of International Law*, 14(1): 51-86.

Orobator, S.E. (2000). International Law and Organization at a Glance. Benin City: Shalom Publishers.

Palmer, D.N. and Perkins, C.H. (2007). International Relations, 3rd Edition. New Delhi: AITBS Publishers.

Puldu, G. S., Terwase, I. T. &Umoh, N. R. (2019) Approaches on Peace and Conflict Resolution in Nigeria: Applying the Social Media Technology. *Coal City University Journal of Humanities*, Vol. 1, Issue 1, 123-131.

Shedrack, G.B. (2009). Introduction to Peace and Conflict Studies in West Africa: A Reader. Ibadan: Spectrum Books.

Terwase, I. T.,Iligh, C., Asogwa, F. C. & Gbasha, C. T. (2019) Conflict, War, and Peace Building in Africa as Emerging Economy. *Coal City University Journal of Humanities*, Vol. 1, Issue 1, 1-12.

Terwase I. T.,Tsuwa, J. T., Nfor, E. S., Itoje-Akpokiniovo, L. O., Atime, S. M. Y., Nuhu, M. B., Kachalla, B. L., Onwuanibe, J. O., Manu, H., Sani, S. M., Sowore, J. O., Mijinyawa, A. & Anyam, B. T. (2023). Rural Violence in Obudu and Vandeikya Communities: Paths to

Conflict Resolution. *Kashere Journal of Politics and International Relations,* Vol. 1, Issue 1, 40-50.

Terwase, I. T.,Sambo, M. A.,Atime, S. M. Y.,Nfor, E. S., Samuel, F., Onwuanibe, J. O., Mijinyawa, A., Kachalla, L. B, Nuhu, M. B., & Anyam, B. T. (2023). Counter-Terrorism Measures: Addressing Youths Unemployment and Poverty in Northern Nigeria. *Kashere Journal of Politics and International Relations,* Vol. 1, Issue 1, 84-89.

United Nations, (1950). United Nations: Report of the International Law Commission