

International Law and Its Relation to Nation States

According to the existing definition, international law is the law that governs the relationships among bodies that are subjects of this law (Kojima para.1). The bodies mentioned above include sovereign nations, international organizations like the United Nations, as well as various national freedom movements (Shaw 10). The history of international law dates back to the Middle Ages. However, at the beginning of the 20th century, owing to the events that took place in the new era, the formation of international law accelerated, resulting in sets of rules and laws, as well as the constitutions of sovereign states. For instance, the two World Wars, coupled with the establishment of the League of Nations and other global organizations, contributed largely to fortification of the contemporary international law (Shaw 16). The United Nations is one of the most powerful international organizations that have brought about the consolidation of many conventions helpful to the international community. However, the existence of a large number of sovereign states predetermined the necessity if a certain set of rules that the given states could adhere to. Genesis of the international law was the one and only possible decision for solving the given problem.

The main purpose of the international law is to supervise the deportment of different member states in a bid to uphold sound relations for the benefit of all. Any member state will do possible to remain within the requirements of the international law. The disregard of these rules or the actions contrary to the provisions of the international law will cause disapproval from other member states, which can permanently spoil state's reputation in the global arena. The international law does not act to profane member states' rights for individual states. On the contrary, the international law seeks to protect the rights of individual member states by offering rules for the peaceful

coexistence of the member states together with non-members to form an international community (Mifsud-Bonnici para.1).

In the past, classical international law sought to separate individuals from states. For instance, Rousseau viewed people as individuals who could not have anything in common with states, grounding his ideas on the fact that the conflicts among countries does not involve conflicts among the citizens of the opposed states (Mifsud-Bonnici para.3). However, the modern international law has managed to incorporate the policy of protecting people's own interests and at the same time maintain reasonable international policy. Introducing humanitarian law as a branch of international law to address predicaments of individuals not states, was a major step towards making the international Law more flexible. Moreover, the elements of International Law are continuously changing to address emerging demands, since the latter change together with the progress of the mankind.

STRUCTURE OF THE INTERNATIONAL LAW

There are two forms of international law, that is, the classical and the contemporary international law. These two forms of international law are based on the same principle, which is sovereignty (Held 160). Within this sovereignty, there are internal and external aspects that govern the international law. These are the rules that govern international law. One of the most striking examples of the above-mentioned aspects of international law would be the rules governing warfare and munitions. The involved authorities make these rules during conventions. For instance, in 1864, there was the Geneva Convention that sought to improve the treatment of people injured in battles and resolve conflicts between states (Held 164). Another landmark achievement concerning the international law is the Hague Convention in 1899. Within the international law, there

are subcategories including environmental laws, child abuse laws and humanitarian laws, making the bulk of the domestic law.

However, the structure of the international law has changed gradually in the last fifty years, moving from the classical structure to the liberal sovereignty model. The latter presupposes that public power should be delimited to the international arena, whereby, no single entity, either political or governmental, can abolish this structure. The liberal sovereignty structure gives the international community the mandate to intervene in situations stipulated in international law without the consent of the state (Held 169).

IMPLEMENTATION OF THE INTERNATIONAL LAW

There are a number of ways, by which the international law can be implemented in different states on various occasions. According to Kojima, there is formal and informal implementation, coercive and voluntary implementation, collective and unilateral implementation, long-term and short-term implementation, national/international and regional implementation, each of them depending largely on the sovereignty of the involved states (para.1). Lopez posits that, sovereignty plays a central role in international law matters because without it, a state has no power to run its foreign affairs, which reduces this state to international object not subject (para.1). Treaties have been used all over the world to implement international laws. A treaty is a component falling under international law, whereby, the involved states or organizations enter into an agreement. According to The International Law of Treaties, there are two types of treaties, namely, bilateral and multilateral. Bilateral is an agreement between two states while multilateral is an agreement between three or more states. Free will

and good faith among other requirements are obligatory components for signing a treaty (Lopez).

Another aspect of implementing international law is the agreement of the parties. If two states are locked in a feud, they can decide to enter into an agreement, otherwise an international body may intervene their relationships and offer its own suggestions to prevent the feud from continuing. According to Kelsen, the power of the alleged international body is based on dealing with the facts of the case. It must be mentioned that the given body is to be highly objective and not to favor any of the opponents (368). The United Nations has been involved largely in implementing international law. For instance, World War II left Korea a divided state, since the Communists took the power of the northern half of the state, whereas the southern half of the territory was occupied by Americans (Lee 14). The United Nations in collaboration with the United States of America put this division to an end. After several failures, the confronting parties signed a peace treaty in 1953 (Lee 126).

Even though the peace treaty signed in 1953 did not help to heal the split in Korea, the Korean War ended (Lee 126), which emphasizes the importance of the United Nations' actions in implementing the international law. According to the Charter of United Nations, the purpose of the latter includes ensuring international peace and security, taking measures that would prevent or eliminate any international threats. The international law is implemented through suppression of elements that cause breach of peace in any given state. The United Nation seeks to bring cooperation in international arena by solving problems be it economical, social or political among others. Therefore, in the wake of conflicts, the United Nations starts acting to quell the differences; by doing so, the UNO implements the international law (Lee 122).

The other bodies involved in implementing international law are the International Criminal Court (ICC) and the International Court of Justice (ICJ). These two bodies deal with making ruling on issues that pertain to international law. The ICJ falls under the UN Charter and it makes ruling concerning pertinent issues within the United Nations member states. The ICC on the other hand is a judicature set to prosecute perpetrators of crimes against humanity, genocide or war crimes. This body implements international law by giving a ruling concerning the aforementioned cases. However, it can only persecute individuals from member states. States like the United States of America, Russia, India and China have not become member states, limiting the powers of the ICC in implementing international law (International Criminal Court).

SIGNING A TREATY VS. INITIATING A TREATY

It must be kept in mind that there is a great difference between signing a treaty and initiating a treaty. Initialing a treaty implies that the signatory agrees with the provisions in the treaty but will not necessarily follow them (Geist para.1). To draw a comparison, signing a treaty implies that the signatory has agreed with the provisions in the treaty and will abide by them (Geist para.6). In initialing a treaty, the signatory uses initials. However, in signing a treaty the signatory has to write his/her full name. For instance, in initialing a treaty, the North America may use USA abbreviation, but in signing a treaty, it has to use the United States of America (Nathan 98).

WHY AND WHEN TO FOLLOW THE INTERNATIONAL LAW

Every member state should follow the international law regardless of the difficulties the state might be experiencing in economics and politics, since the international law, just like any other law, seeks to protect individuals from abuse of any form, according to

Stoyles and Broomhall (para.3), and, hence, must be followed in the name of humanity. Unfortunately, there have been incidences when double standards have been applied in implementing the international law. The international law's aims seem to have changed from pursuing its mandate of ensuring justice for everybody to purporting power and class at the international arena. The shift in the policy of the international law is the only explanation of why most of the people taken to ICC in Hague are mainly Africans, yet there has been rampant human rights violation all over the world (International Criminal Court, ICC Prosecutor). The international justice came in action in the west when a special tribunal by the UN prosecuted Serbia's Milosevic. Actually, the reason for this prosecution to take place is that Serbia went together with the war (Rachman para.3), which only highlights the double standards applied in the international law.

A good example of the way the international law applies double standards is the war in Iraq involving the US troops. First, the UN Security Council did not authorize the American invasion (Palmer para.1). Therefore, based on the UN charter, this invasion was illegal under the confinements of the international law. Unfortunately, as war raged, no one seemed to voice concern, not even the ICC or the UN Security Council itself, which were striking examples of the way the international law allows the countries to follow double standards. Last month, the ICC chief prosecutor, Moreno Ocampo was in Kenya as he prepared to haul the suspects of the 2007 post election violence to The Hague (International Criminal Court, ICC Prosecutor para.1). Before the post election violence started in Kenya, on around 29th December 2007, the US troops were still in Iraq. There have been different explanations as to why the US troops had not been removed. Supporters of partial application of international law claim that the American troops in Iraq do not act on behalf of police officers. On the contrary, the American troops in Iraq perform the function of vigilant groups (Myers para.4), which is an obvious

lie. The policy of disclosure and double standards is not new for the US administration. For instance, in 1999, NATO bombed Serbia, again without approval of the UN Security Council.

Another good example of the violation of the international law is the detainment of prisoners in Guantanamo. The Bush administration argued that, the Guantanamo detainees could not benefit from constitutional rights because they were outside America (Raustiala para.6). According to the existing idea of the international law, international justice is all about ensuring safety and providing rights for everybody. Thus, the ICJ could have intervened but once again, it did not respond to the obvious negligence of people's rights. Location may affect constitutional rights; however, legal rights transcend geographical borders, which is why the UN Security Council should have taken place in the case of the Guantanamo prisoners. The United States of America seems to assume that the laws governing sovereignty have changed. Unfortunately, this is not the case. In the light of the actions undertaken by the USA government, it appears that the international law does not implement the necessary actions to provide worldwide justice. The notorious Iraq invasions is one of the most striking examples of the way the international law failed to implement justice, since the procedures used do not comply with international law standards.

However, it must be admitted that in most cases, the international law served its purpose in the best way. For instance, if countries like Kenya, Sudan and South Africa among other neighbors of Rwanda had been intervened in 1994, probably millions of Tutsis would not have perished. It appears that overlooking the international law at certain moments may help to save a situation. Most probably, if the US had not deployed troops to Iraq, a replica of 9/11 would have happened by now. If Kenya, South Africa and Sudan among others had intervened to prevent the notorious 1994 Rwandan

genocide, millions of Tutsis would have been alive today. It appears the laxity of international law implementation before the law is flouted contributes largely to its subsequent loss of power. Perhaps, the US did not see any action against Iraq forthcoming, so the U. S. moved to tame the Iraqi insurgence before the state of affairs got out of hand. Nevertheless, if a state becomes part of international community, it has to adhere to the governing rules. If people do not uphold the very laws made, issuing any further acts will be completely useless. Hence, there is no need to waste a lot of time and resources trying to make laws that will only exist in written, but are not followed by the majority.

OUTCOMES OF VIOLATING INTERNATIONAL LAWS

As it has been mentioned above, after the USA in collaboration with Britain invaded Iraq, violating international law principles, no legal actions were taken to protect the rights of the Iraqi people. Moreover, the battle against the occupation of Iraq is still going on, while the ICC and the ICJ are watching the conflict without undertaking any steps to make the battle cease, which is against the international law as well. In 2006, due to the mounting pressure from other countries, the ICC chief prosecutor Moreno Ocampo gave all explanations regarding the war in Iraq. Ocampo indicated that, according to article thirteen contained in Rome Statute, he has to gather and analyze information to determine whether there is enough information to substantiate an investigation (International Criminal Court, The Office of the Prosecutor para.2). It appears that Moreno Ocampo is still gathering and analyzing reports to determine whether the international law was violated in Iraq, or there is no evidence of international crime. Indeed, it is sad to watch the international law, the body that is supposed to protect its subjects from their rights violation, turn against them. America

and Britain have not been charged with aggressive attitude towards Iraq, and it appears that if any further violation of international law takes place, no actions against the international crime will be taken either.

NO COUNTRY IS AGAINST THE LAW

Despite the violations of the international law that took place in Iraq, it is still obvious that no country should be above the law. The resolutions offered by the UN Security Council must be followed by and complied with all states. According to the Charter of the United Nations Organization, chapter 14, article 92, the International Court of Justice is the principle judicial body of all member states of the United Nations (para.6), which does not excuse the actions of the United States of America or Great Britain. The principles of the international law underpin the need of every member state to comply with the provision concerning the basic rights of people. Article 94 of the same chapter states that all members should comply with the postulates of the ICJ; regardless of the decision the latter makes, the ICJ provisions must be followed. There is no need to come up with complex systems to implement the provisions mentioned, though. All member states, including the USA, should maintain diplomatic attitude and respect each country's sovereignty when dealing with foreign affairs.

International law is applied to all people. There should not be partiality when dealing with individuals. People cannot pervert justice even with the help of their power and influence. There are basic principles that every country should follow in order to maintain and foster international law. For instance, there is the UN Security Council sanction concerning use of force, which sets the standards of using force so high that the use of force becomes the last resort of any country (Rachman para.5). Secondly, the international law dictates the means to conduct wars. This provision should not be

flouted; therefore, countries like America, who feel above international law, should reconsider their actions.

CONCLUSION

International law is the law that governs the relationships among bodies that are subjects of this law (Ginger). The peaceful coexistence of different communities or states, living together in a given area demands the formation of international law that will protect all individuals. Such law seeks to uphold justice for all people across the nations. There are several ways by which international law is implemented. These may be formal, informal, national or international dimensions of implementations. Involved parties may decide to sign treaties or enter into agreements depending on the intensity of the crisis the given countries can experience (Mazrui 123). There are international bodies involved in implementing international law, like ICJ, ICC or the UNO. The primary work of these bodies is to ensure that individuals get justice regardless of the location of their state. The international law, like any other laws, should pass judgment regardless of one's status, power or influence of the states in question.

Unfortunately, there are instances where international law has failed to ensure justice without favoring certain states. For instance, ICC is supposed to prosecute perpetrators of war crimes or crimes against humanity. To the dismay of many, the event concerning the USA intervention into Iraq was not the case. Most of the people who have been tried and prosecuted in The Hague are mainly from Africa. There are extremely many cases of crimes against humanity all over the world, but the ICC does not seem to be concerned about them (International Criminal Court). For instance, the presence of American troops in Iraq is illegal and it flouts provisions of the UN Security Council. Despite this negligence of the international law, no legal action has been taken

against America, Britain and the other countries supporting the actions of the USA (International Criminal Court).

The international law should be followed closely by every member state; there is no one above this law, including America. For justice to prevail, there must be level grounds of administering the international affairs. America and its supporters should realize that it is through respecting other people's rights that one can be respected. Fear and intimidation do not serve any justice, only fueling adversity.

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