NATURE OF THE POLITICS OF INTERNATIONAL LAW WITHIN THE NIGERIAN STATE

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Abstract: *The paper looks at the nature of international law politics within the Nigerian state and the challenges Nigeria faces in implementing it successfully. Neorealism theory, which relies on secondary data gathered from documentation through published and unpublished books, journals, articles, and other publications on human rights and maritime/environmental treaties, was used as the intellectual framework and adopted the qualitative synthesis of the scientific method. It was also discovered that the majority of international treaties are less enforceable due to the National Assembly's inability or negligence in domesticating the laws to which Nigeria is a party. The conclusions drawn from these observations lead to the following recommendations, which are listed in no particular order. The 2004 Treaties Act comes first. should be changed right away to make consultation with the appropriate National Assembly committees a prerequisite for making treaties. In the same vein, training and capacity building for the bureaucracy and other pertinent agencies are necessary to guarantee the efficient execution of the numerous international legal instruments to which Nigeria is a party.*

Introduction

International law was pivotal in the emergence of global institutions and mechanism for the enforcement of international law Balanda (2003). The enforcement quality as argued by the classical theorists, has been identified as one major problem of enforcement of international law. It was often said that international law failed to have desired impact for its absence of enforcement mechanism Beetham, (2008). However, the contention has mainly been set aside by the growing significance of international treaty making procedure. In the words of Baricako (2008), the Rome Statute, Statute of ICJ and other related documents of numerous temporary or transitional tribunals have provided international law with sufficient and firmly grounded mechanisms or institutions to put in force its rules. While treaties demand certain expectations from the parties, the moral perception its derive for comity of Nations and citizen is tremendous. Arising from the foregoing there is a sense of commitments, at a moral level, that such treaties exert on states and people, it is therefore not surprising that the obligatory and moral force that treaties exert have been extended beyond parties that are signatory to such treatise Baderin, (2007). After post Second World War dynamics significant, entered cross-national and global relation. It created conditions favorable for country to assume duties, roles established via treaties to which they are not signatory to Bello, (2007).

Furthermore, it has to be noted that the essential of being a party for assuming duties and rights under international law is ruled with the notion of sovereignty Benedek, (2005). International law assumed that nothing can be carried out without or contrary to the political will of a sovereign Nations.

International Treaty therefore have dual offer, conflicting roles, limitation on the exercise of sovereignty and protection of citizens. The contradiction arising from the constraining effects that international law expert on the use of force in global affair Beyani, (2004). The freedom of Nations is thus, always one of the 'central points' of international law. The law of treaties however cannot be required to offer for such statutes that negatively have an effect on the 'sovereignty of Nations. Though, this rule by no means excludes Nations for voluntary assumption of responsibilities under international law Bhagwati, (2008). The Vienna Convention is the documents to codify global laws on Treaty. International law negates the traditional notion that treaties making is the exclusive right of sovereign Nations Chanock, (2000). Granted the choice to be signatory is the prerogative of the state, the dynamics of formulating and being part of an international treaties is entirely different phenomena. Generally, treaties offer the basis of most specific international laws (Conteh, 2003).

However, despite the significant role international law has come to play in the comity of nations, one of the major problems, has been the failure of states to comply with the international obligations in general. Partial but extremely important non-compliance and unenforceability of its rules by domestic government (Cranston, 2006). The challenges of enforcement of international legal instruments within the global system and the peaceful resolution of global disputes under the United Nations structure is a phenomenon which threatens the authority, integrity and the practicability of an international judicial body (Dankwa, 2002). Similarly, in the opinion of Eide and Gudmundur, (2002), it also undermines and weakens the stability of the international judicial proceedings as a whole and potentially international peace and security. One of the fundamental principles relating to compliance with existing commitments in international relations is the principle of ‘pactasundservanda’ and the related Bonafede (compliance with obligations in good faith). They are set forth in several international documents such as Article 26 of the Vienna Convention, which was adopted on the 6th of May 1969. To this article, any effective agreement that is binding between the parties and obligations arising from it must be done in good faith. These terms and principles are part of the foundation and proper functioning of international relations and cooperation between states as subjects of international law. Nevertheless, the universal recognition of this principle dated back to the date of adoption of the UN Charter as the basic document that governs the functioning of the United Nations. Under Article 26, “All Member States are required in order to implement the rights and obligations and obtain the benefits arising from its membership to comply in good faith with its international obligations under the Charter”.

This obligation according to Evans and Murray (2002), applies to any international agreement and should generally be made. Since gaining independence in 1960 and consequent on its membership of the UNO, Nigeria has been visibly active at the international stage. Base on the foregoing, Nigeria unequivocal commitment to international law centered on the tenets of the UNO, became a fact that gutted its dealings in the commitment of nations. This has been the position of successive government in Nigeria being civilian or military. Consequently, Nigeria has been visible and active within the framework of the UNO. Base on the UNOs political and legal dynamics as embodied in a range of universal and multilateral treaties. Adeleke, (2000). It is pertinent to note that it is an active participant in a host of treaties making fora. Some developing Nations such as Nigeria have naturally been active participants within the framework of the United

Nations structure. Nigeria has also participated in numerous international laws and conventions on a range of significant global issues. However, the conclusion rest on the claim that despite the overt enthusiasm for international laws covering a range of global issues, current practices and policies are different in meeting global standard and expectation. The Forgoing claim is particularly relevant when it comes to implementations of treaties that concern Environmental and Marine issues, and Human Rights in Nigeria. According to Koch (2001), the regime seems to lack or its unwillingly to use its political will for efficient incorporation and implementation of the standard required as it relates to International Human Rights treaties issues.

Objectives of the Study

The specific objectives of the study are to: examine the nature of the politics of implementing international law within the Nigerian state; examine the problems confronting Nigeria in successfullyimplementing standards; policies and structures required to meet the expectations of various international maritime obligations; suggest measures to ensure the successful implementation of international laws within Nigeria.

Research Questions

The following research questions will guide the study: what is the nature of politics of implementing international law within the Nigeria state? what are possible ways of ensuring the successful implementation of international laws within Nigeria?

Literature Review

Nature of Politics of Implementing International Law Within the Nigeria State

Global legal regimes established by international treaties have constituted policies, standards, and principles establishing the obligation and right of state on various issues. These treaties have helped individuals address diverse world issues such as the environment, ocean resources, marine resources, and other useful heritage to mankind. However, some nations have declined or jettison these treaty commitments, despite the Vienna Protocol on the Law of Treaties of 1969 (Olaleye, 2016). There is a fundamental linkage between politics and law, as both are in the twin business of creating and maintaining public peace, order, good governance, and justice for an enabling environment for the people. However, the linkage between politics and law has been in theory due to the paramount of politics, which is derivable from the state's claim of right to exercise a supreme will over individuals, groups, and institutions located within it. Politics that concern the state includes activities that either involve or directly affect the institutions of the state or the business of governance. This can include interactions among nations in the global arena, voting practices, bilateral meetings, and multilateral meetings organized under the auspices of the United Nations (Odoma, & Aderinto, 2013). Nigeria's federation system consists of the National Government and the State Government, with the 1999 Constitution incorporating this common feature into its legislative lists. The exclusive legislative list states duties and functions met exclusively to the central government, while the concurrent list contains duties and functions met legislatively to be exercised by the federal and state governments respectively (Mandanda, & Ping, 2016). Over the years, international law has progressively relied on treaties and instruments for the conduct of world affairs.

International Law/Treaties

The Nigerian legal system follows a dualist method, with laws and treaties entered between countries not becoming laws without legislative enactment. These laws must be passed into law by the upper legislative chambers, as per the 1999 constitution. Treaties are international instruments entered among nations, regulating through global law. They typically bind only parties who endorsed and ratified the instrument. However, some treaties can enter into force immediately upon endorsement, as seen in the case of Nigeria vs Cameroun (Salau, 2017). Unratified treaties can also be domesticated by the National Assembly. International law is a collection of consensual rules and principles developed from customs and practices of civilized nations. It is based on bilateral or multilateral agreements entered into by nations for application between or among sovereign countries. International customary law and treaties are the two most notable sources of international law, with great moral force.

Problems Confronting Nigeria in Successfully Implementing Standards, Policies and Structures of Human Right

Nigeria lacks effective criminalization of anti-maritime activities at sea and no national law specifically incorporating UNCLOS and the SUA Convention and Protocol (Rotimi, 2016). The Merchant Shipping Act only applies the 1988 SUA Convention and Protocol to maritime safety but lacks adequate punishment for offences under the Convention and Protocol (Ali, 2015). The United Nations Convention on the Law of the Sea (UNCLOS) provides interrelated obligations in respect of unlawful environmental acts in the maritime sector, including repression at the national level and cooperation at regional and international levels (Wertheim, 2017). Legal frameworks that facilitate information sharing and strategies to combat unlawful maritime activities are needed (Agbakoba, 2014). The Economic Community for West African States (ECOWAS) Treaty of 1975, the Maritime Organization of West and Central Africa (MOWCA) Memorandum of Understanding for the Establishment of Sub-Regional Integrated Coast Guard Network in West and Central Africa (MOWCA Coastguard MOU), the Treaty of the Gulf of Guinea Commission (GGC) 2001, and the Yaoundé Code of Conduct Concerning the Repression of Illicit Maritime Activity in the West and Central Africa (Yaoundé Code of conduct) are all available to counter illicit activities in Nigeria. To minimize legal complexities, regional and global cooperation is recommended (Salau, 2017).

Measures to Ensure the Successful Implementation of International Laws Within Nigeria.

International law is a crucial aspect of government activities in Nigeria, reflecting the country's interpretation and perception of global law (Rotimi, 2016). The formulation process involves various individuals, including researchers and ambassadors, who play a significant role in shaping the law. Nigeria's educational structure has a solid foundation for developing a sophisticated disposition to international law. Despite having numerous public and private universities, Nigeria has a large number of well-qualified lawyers, some specializing in international law. However, efforts must be redoubled to facilitate the succession of the younger generation. The government, non-governmental organizations, and individuals need to provide financial support for progressive contributions to international law in Nigeria. Other measures according to Osinowo, (2015) include:

Legal Libraries: Two main problems arise from the establishment of legal libraries: the provision of books and material and the training of legal librarians. To have a good library is not only to have a collection of books (and requisite funds for increasing this collection), but knowing how best to use the resources of such a library. The number of books in Nigeria devoted to international law is increasing yearly by their thousand. Although the various institutions in which international law is taught in Nigeria have libraries, their stock of relevant international law books and materials is still very limited and mostly out of date. There has been little financial supplementation to update the holdings. The result is that both the institution and its students depend on the personal resources of the professors (which in turn are generally not current as they cannot mobilize sufficient foreign exchange to subscribe for the relevant journals in the field).

Subsidies: Direct subsidies to universities and institutions of higher studies are the traditional way to develop the study of international law. As a procedure in United States and Europe, the legacy of permanent members in global law-by which scholars devote sufficient time in research - as the best way to develop the study examine international law. This is one significant area that wealthy and spirited citizens and institution would be useful.

Seminars: Seminars are very useful for eminent scholars and high governmental officials in order to interchange opinions on important problems of international law. Personal acquaintance is a very important factor in communication between professors or officials from different countries. In addition, any particular point under discussion is an opportunity to evaluate the experience of others as well as one's own.

Training and Refresher Courses: The importance of training and refresher courses in the promotion of international law cannot be overemphasized. The purpose of such courses is to widen the knowledge of professors, post-graduate students, and junior officials by attending classes taught by eminent professors. This could readily be organized from time to time in Nigeria to accommodate the interest of scholars in international law. In order to accomplish all of the above, money is very much needed. In these times of serious economic crisis, funding becomes difficult (Dutton, 2013). Ultimately, however, the government has the responsibility to solve these problems.

Therefore, for the aim of overcoming the hurdles against effective and successful implementation of international laws, the following recommendations were made. Effective management framework should be developed to allow flexibility in the Nigerian environmental governance. The planning strategy should include into design how many years should be taken before a given policy is fully implemented; who should absolutely be in charge of such policy; and how can it be enforced and which instruments should be used. Also, assessment of the necessary resources such as finance, trained human resources, and instruments required to implement such policy should be made before enactment (Edoho & Dibie, 2000). Moreso, the government should increase the budgetary allocation for environmental institutions and their programme. Adequate funding and proper environmental training both at the state level and national. In manner that the environmental governance and diplomacy will there for exposed the agent of the institution into the latest knowledge on capacity building of the human resources. Furthermore, the Nigerian government should obviously share the duties on environmental issues to the different institutions involved. Each establishment will know its own dominion and obligation and where not venture to.

Theoretical Framework

The neo-realism theory, which looks at constructivism, liberalism, structuralism, and realism as well as other factors at work in the international system, is applied in this study. Liberalism criticizes the structures, practices, and financial ties that confine and mitigate national energy abuses. Constructivism emphasizes how ideas define global structure, governments' interests, and actors' reproduction, diverging from neo-liberal and neo-realist theories (Akpotor, 2015). It makes the case that cognitive systems that provide people access to the physical world are used to socially construct global reality (Ader, 2005). According to the report, one feature of the international system is the enforcement of obligations to protect populations outside state borders from environmental threats and violations of human rights. It is only theoretically possible to assert that different governments have ratified the implementation of international legal systems (Carr, 1983).

Research Method

The study uses a descriptive research design and uses historical research methodology that includes secondary data analysis. The study makes use of secondary data gathered from documentations through books, journal articles, and other publications on human rights and maritime/environmental treaties, both published and unpublished. It also employs the qualitative and synthesis of scientific methods. That is, a methodical analysis of the literature on the politics, difficulties, and application of international law and treaty enforcement in Nigeria following colonization. This entails looking through existing documents that address the research question; these documents include a variety of written resources. The historical technique was chosen by the researcher since it allowed them to analyze the issue rather than just focusing on the numbers as in a quantitative approach but would enable us to reveal a more detailed and in-depth image concealed beneath the figures. The secondary data was qualitatively analyzed as part of the analytical process. Given that drawing conclusions from statistics is not the goal of this investigation. The secondary data that was taken from the previously mentioned sources was utilized to either confirm or refute theoretical claims about the difficulties in implementing international legal treaties. However, there are several limitations to this analytical process. Specifically, statistical conclusions that would have allowed for inter-subjectivity, generalization, and prediction are not allowed.

Data Presentation and Discussion

This part of the study is focused on analyzing the nature of human rights and problems confronting Nigeria on international maritime with particular emphasis to answering the following questions:

Research question 1: What is the Nature of Politics of Implementing International Law Within the Nigeria State?

Nigeria has been actively ratifying human rights conventions, but the country's dualist system has led to conflicts over the domestic applicability of these instruments. The country operates a dualist system, where treaties cannot be applied domestically unless they have been incorporated through domestic enactment as corroborated by (Osler, 2014). This dualist system is similar to the UK's approach, which allows the central government to enter into international instruments. However, for instruments to have force of law, they

must be promulgated into law by the National Assembly. The criteria for incorporating international instruments as domestical law was a historical formulation and a relic of colonialism. The country has inherited the common law doctrine governing the domestic application of universal law, as seen in the Abacha vs Fawehinmi case. The Court of Appeal held that the African Charter has been incorporated into domestic law in Nigeria, and the federal military regime is not legally allowed to enact its obligations. The Supreme Court, constituted by seven justices, unanimously confirmed the dualist effect of section 12(1) of the constitution. The exclusion from domestic application of human rights instruments to which the country has become a party by succession, accession, or ratification by the deliberate failure by the legislature to enact them into law appears unwarranted (Dutton, 2013).

Research question 2: What Are Possible Ways of Ensuring the Successful Implementation of International Laws Within Nigeria?

Nigeria has many public and private universities that study international law, but the current generation of scholars must continue building upon this foundation to facilitate their succession (Piracy, 2017). Nigeria must address several challenges to ensure successful implementation of international laws, including the establishment of legal libraries, which need to provide books and materials, and the training of legal librarians (Anyimadu, 2013). Direct subsidies to universities and institutions of higher learning are also necessary. International law is an important aspect of government activities in Nigeria and reflects the country's interpretation and perception of global law and senior government representatives to discuss crucial matters of international law. Professors, graduate students, and junior officials all need training and refresher courses to expand their knowledge. Financing, however, is frequently challenging during economic downturns (Edoho & Dibie, 2000). Nigeria should create a strong management framework for environmental governance, which would include budgetary increases for environmental institutions, resource assessments, and planning methods (Mbanefo, 2017). Institutions will be exposed to the most recent research on diplomacy and capacity building as a result. The Nigerian government should assign responsibilities for environmental matters to various organizations, making sure that each is aware of its own jurisdiction and duties (Steffen, 2015).

Discussion of Findings

According to the Nigerian government's constitutional setup, the administration appears to have been unable or unwilling to act in accordance with the established standards and provisions for the enforcement of international law and human rights legislation. Important national accords, like the Kyoto Protocol, the UN Framework Convention on Climate Change, and the UN Protocol on the Law of the Sea, have been successfully negotiated and implemented by the Nigerian government. To execute and enforce international agreements and standards for environmental and marine conservation, including human rights, the regime must, nevertheless, reform its constitutional provisions and policies. Human rights protection and observance are too valuable to be sent to the state policy, and Nigeria ought to concentrate on establishing a legislative framework that guarantees the defense of social and economic rights. These points largely highlight the government's laxity in promoting and defending human and people's rights. They also demonstrate the

government's lack of concern for the management and control of numerous public and social practices and behaviors that have a detrimental influence on the maritime environment. Numerous studies on the appalling environmental conditions in the Niger region have examined how the regime's primary environmental issues were caused by gas flaring, deforestation, and oil spills, among other things. An analysis of the corporate responsibility section of the Human Rights Report in relation to the Human Rights statistics on oil and gas Operators of multinational corporations in the area have made it clear that foreign producers of gas and oil seem to have a lot of influence over the environmental and operational regulations that fit them. As an illustration, consider the words of John Jennings, a former M.D. of shell petroleum development companies, an oil and gas operator in the Niger Delta, who claims that the burden of the double standard is unfounded because it stems from the idea that there are environmental policies that are exclusive to the extent that we can continue to develop different structures indefinitely (Human Rights Watch 1999).

Conclusions

Nigeria's agreement with other international law matters does not change into domestic laws, with the exception of this agreement, are unquestionably issued and assimilated by the Upper Legislative Chambers into our local laws. However, the Upper Legislative Chamber has repeatedly shown that it is unwilling or has no interest in carrying out its obligations in carrying out this important task; as a result, numerous constitutional agreements to which the regime is a party have not been implemented even after they were ratified. And as a result, the regime's legal system has suffered greatly from the necessity to support and complementarity that should come from the ratified but incorporated accords. It is sufficient to state that domesticated treaties both strengthen and broaden the scope of Nigeria's legal system. This 1999 decision's discriminatory outcome. The African Charter's rights are fundamentally undermined by the Constitution. The 1999 constitution places environmental policy-related matters within the exclusive, concurrent, and residual list, demonstrating the ability of intergovernmental control over environmental issues. This presents a substantial difficulty for the management of environmental enforcement.

Recommendations

Based on the findings of the study and the conclusion thereof, the following recommendations are outlined for the study:

The study relied on Laws as provided and enshrined in the 1999 constitution of the Federal Republic of Nigeria (as amended), other municipal statutes, and certain international protocol such as the Vienna Convention of Treaties of 1969 as well as case law. The study revealed amongst other things that in Nigeria, treaty making have been confronted with a lot of challenges posed not by our law, but bureaucracy and this has persisted because no attempts have been made to address it holistically in order to nip it in the bud. To this end, capacity training should be carried out for the bureaucracy and other relevant agencies to ensure they help not only in the domestication of international laws, but also the effective implementation and applications of the various international legal instruments that Nigeria is a signatory to.

It is further recommended that to prevent the risk associated with the present arrangement, some form of co-operation is required between the President as Head of the Executive arm

of Government and the National Assembly in the negotiation and eventual ratification of treaties. While it may be unwieldy to involve all the members of the National Assembly in the treaty making process, the Treaties and Protocols Committees and the relevant Committees of both Houses should be involved or at least, properly briefed and sensitized and where necessary, their approval obtained on major principles of the treaty during negotiations before it is eventually signed. Where the above recommendation is carried out, it would then be the responsibility of the relevant committees who were already part of the process, to defend and explain the utility of the provisions of the treaty to their members and colleagues.

Contributions to Knowledge

This study has contributed to knowledge in the following ways:

the study has further established the fact that treaties entered between Nigeria and other subjects of international law do not transform into domestic laws unless they are specifically domesticated or recognised by the act of the National Assembly.

The study also established that the Nigerian government lack the capacity or is unwilling to implement and enforce the provisions, obligations and standards provided for in these treaties.

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