

Politics and International Human Right Law within the Nigeria State

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Abstract

The study examined politics and international law as visible in the Nigeria state using the Neorealism theory as the intellectual framework and adopted the qualitative synthesis of the scientific method as it relies on secondary data collected from documentation through published and unpublished books, journals, articles, and other publications on Human Rights and maritime/Environmental treaties. The National Assembly's inability or negligence in bringing the legal treaties that Nigeria is a party to home was exposed., has undermined the enforceability of most international treaties. Based on these findings and the conclusion arising thereof, it is recommended that treaties Act, The Constitution of 2004 in Nigeria should be amended to establish consultations with the relevant Committees of the Upper Legislative Chambers as a mandatory procedure for treaty-making.

Keywords: Politics, International, Human Right, Law and Nigeria.

Introduction

Conventional view holds that a sovereign nation's exclusive ability to make treaties is refuted by international law (Agbakoba, 2014). Although a state has the right to choose whether or not to sign a treaty, The process of creating and participating in an international treaty is a quite distinct phenomenon. Most particular international rules are often based on treaties (Chanock, 2015). The inability of governments to uphold their general international commitments has been a serious issue, notwithstanding the important role that international law has come to play in the comity of nations. partial but crucial non-compliance with its regulations and the domestic government's inability to enforce them (Ese, 2017). The difficulties in upholding international law within the framework of the global system and finding peaceful solutions to global disputes under authority, integrity, and viability of an international judicial body are all at risk due to the occurrence of conflicts within the UN system (Dutton, 2013). It also jeopardizes and diminishes the overall stability of international judicial procedures, which may have an impact on global peace and security (Bilder, 2013).

The idea of "pactasunderservanda" and the associated bonafides (compliance with obligations in good faith) are among the core concepts linked to compliance with current commitments in international relations (Koch, 2011). They are outlined in a number of international agreements, including Vienna Convention Article 26, which was ratified on May 6, 1969. Any legally enforceable agreement between the parties and any duties resulting from it are covered by this article. needs to be carried out honestly. These concepts and words are essential to the basis, appropriate operation, and collaboration of nations as subjects of international law in international relations (Mandanda, & Ping, 2016; Balanda, 2013). It goes without saying that the state of Nigeria inherited a number of bilateral and multilateral treaties and conventions that were signed before to its independence. In addition, it has taken part in several international problems and joined many other international treaties that have been signed since 1960 (Koers, 2013). Moreover, as a result, Nigeria has actively participated in the political growth process by ratifying and codifying international law. Nigeria has shaped and helped other African nations ratify important international treaties and conventions at the subregional level, frequently taking the lead in doing so. As an example, the Group of 77, the non-aligned movement. When it comes to participation in and performance of obligations under international treaties, the nation might be considered, in general, a compliant member of the international community (Odoma, & Aderinto, 2013). Nigeria has a mixed record when it comes to several multilateral treaties, despite her excellent track record of adhering to the duties placed upon her by UN-enshrined agreements.

Objectives of the Study

1. To understand the concept of politics and law
2. Examine the nature of the politics of implementing international law within the Nigerian state

Research Questions

1. what is the nature of politics of implementing international law within the Nigeria state?
2. what is the nature of international human rights law and maritime/environmental protection laws in Nigeria?

Literature Review

Politics and Law

It is maintained that politics and law are inextricably linked since both are necessary for establishing and preserving

public order, justice, good governance, and peace (Mbanefo, 2017). A good political sovereign should foster harmony so that moral norms may be upheld. A society that is waging war or a state that is revolutionary, however, may result in lawlessness as the courts might not be able to make decisions until the crisis is resolved. Infringements by the government on its own laws exacerbate this concern. The legal theory of covering the field is viewed as a warning flag for the judiciary's demise (Osholowu, 2013). There should be a supremacy of law over politics if the judiciary is to interpret the laws that govern politics. But theoretically, this is because of the crucial politics in societies that are both African and non-African. This is because the state asserts that it has the exclusive authority to impose its will on people, organizations, and groups. This is done through the monopoly of law (Ese, 2017). While political supremacy is utilized in African civilizations to support leaders, it is employed in Western society to fix legal flaws for the people's utilitarian advantage (Mandanda, & Ping, 2016).

Nigeria's 63 years of nationhood have seen 36 years of military power, leading to debates about the separation of law and politics (Balanda, 2013). The Eurocentric view suggests that law should be independent of political influence for better governance and justice. However, the establishment of law is more realistic through the political process. Politics, on the other hand, is defined as the authoritative allocation of values for a society, which must be obeyed. It transcends all other institutions and processes in the state, including law adjudication. Politics is characterized by conflict, and governments may take actions that are politically expedient but legally wrong. In Africa, most governments relying on this power have taken politically inexpedient and legally wrong actions (Agbakoba, 2014). Politics that concern the state includes activities that directly affect the institutions of the state or the business of governance, such as interactions among nations in the global arena and voting practices. Politics can also be resolved by Cameroon and Nigeria holding bilateral talks to settle territorial disputes and multilateral UN-sponsored gatherings to address topics like climate change and nuclear non-proliferation. (Koers, 2013). The federal government of the nation is made up of the state governments, with the federal government and state government sharing governmental power. Legislative lists are a recurrent element included into Nigeria's constitutions by their drafters since the country's embrace of federalism in 1954. The 1999 Constitution, like the previous one, stipulated two legislative lists known as concurrent legislative list and exclusive list (Ajomo, 2014).

Nature of the Politics of Implementing International Law within the Nigerian State

The nation inherits a dualist approach to the application of universal law or the legal system, which is typical of common law nations (Akpotor, 2015). Therefore, legally entered treaties and laws between Nigeria and other countries do not automatically become laws in Nigeria without legislative enactment; instead, they must be formally passed into law by the upper legislative chambers in accordance with section 12 (1) of the federal republic of Nigeria's 1999 amended constitution before they can take effect. It is impossible to overstate the importance of treaties and the international legal system in advancing national legal systems (Agbakoba, 2014). An international agreement that creates norms and laws between states through international instruments is called a written treaty. But occasionally, a treaty's support causes it to automatically come into force and bind the parties to it without the need for additional ratification (Ajomo, 2014). In most instances, bilateral accords demonstrate this (Dutton, 2013). This stance is made abundantly evident in the Nigeria v. Cameroun case. Nigeria, where international courts have declared that, in order for an instrument to enter into force, a two-step process consisting of signature and ratification is usually required. These cases also include instances in which the document entered into force immediately after it was endorsed. the court disclaim the debates that the Maroua Declaration, a bilateral instrument between Nigeria vs Cameroun was illegal under global law for the fact that it was endorse by the head of state of Nigeria as of that time but, has never been ratified.

flows from the onset that a treaty which is yet to be ratified may also be domesticated by the upper legislative chambers National Assembly (Bildler, 2013). Also, the Supreme Court rules on Chris Giwa VS Amuju Pinnick over FIFA decision on who becomes the authentic president of Nigeria Football Federation (NFF). The Vanguard (Lagos), November 3, 2016, pp21-22. International law is the law, rules and principles which regulate legal relations among sovereign nations. It is the rules and principles of general application which regulate the conduct of nations and international organizations, their relationship among themselves and their relationship with persons whether natural or juristic (Ali, 2014). International law is a collection of consensual rules and principles which developed from the customs and practices, which civilized nations apply in regulating their relationship (Kolawole, 2015). In another breath, international law is the body of legal rules based on bilateral or multilateral agreements entered into by nations among themselves, for application between or among sovereign countries. As a result, international customary law and treaties, or agreements are the two most notable sources of international law; international law has great moral force (Chanock, 2015; Ese, 2017).

Theoretical Framework

The neo-realism hypothesis was applied to analyze the forces within the international system, using theories such as constructivism, liberalism, structuralism, realism, and liberalism. Liberalism critiques organizations, policies, and financial relationships, offering an optimistic worldview. Constructivism focuses on how concepts create global structure, defining state interests and identities (Barnett 2006). It posits that social construction of global fact is facilitated by cognitive processes. Realist multilateralism, unlike idealist multilateralism, often implies nations act independently when needed. These theories provide insights into the forces operating within the international system. From the aforementioned, it can be inferred that one aspect of the international system's operation is the enforcement of duties to safeguard people outside of national borders from dangers to the environment and human rights abuses (Carr, 1983). It is commonly stated that the various provisions within the framework of international law (treaties and law) have only been theoretically ratified by various states.

Research Method

The study uses a descriptive research design and historical methodology, analyzing secondary data from various sources on human rights and maritime/environmental treaties in Nigeria. It employs qualitative and synthesis scientific methods to reveal a more detailed and in-depth image of the issue. The data was qualitatively analyzed to confirm or refute theoretical claims about difficulties in implementing international legal treaties. However, the analytical process has limitations, including the inability to draw statistical conclusions. 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. This section of the research is devoted to examining Nigeria's international maritime challenges and the nature of human rights, with a focus on providing answers to the following inquiries:

RESEARCH QUESTION 1: What is the nature of politics of international law protection in Nigeria?

Nigeria's dualist approach to international law, which calls for the national legislature to proclaim accords, has increased the reach of Nigerian law and impeded the execution of treaties. The exclusive list and the concurrent list, which outline the legislative responsibilities of the federal and state governments, make up the two legislature lists included in the constitution. Different nations have different views on the place of domestic law in the international arena; some consider customary international treaties to be a part of national law. Nigeria is portrayed as a dualist state under Section 12 of the 1999 Constitution, which mandates that all treaties be domesticated before they may be implemented domestically. On the other hand, the Federal Republic of Nigeria's Constitution and accepted principles of law in Nigeria. Certain rights, which are not absolute but are expressly restricted, such as the freedom of expression, peaceful association, freedom of movement, and private and family life, are restricted by the provisions of the constitution. One major problem is Nigeria's vague and ambiguous approach to international law enforcement and human rights.

RESEARCH QUESTION 2: What is the nature of International Human Rights law and Maritime/Environmental Protection laws in Nigeria?

Nigeria has been actively ratifying international human rights treaties, 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. 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 domestic 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. This highlights the inequity of section 12(1), as human rights treaties to which the country is a party have no effect except at the instance of the legislature.

Conclusions

According to the study, Nigeria's inability to uphold international human rights standards is mostly attributable to the absence of robust democratic institutions and constitutional inconsistencies. Without honoring its own internal legal framework, which is currently ill-equipped to uphold all of the rights guaranteed in the African document on Human and Peoples' Rights, the nation domesticated the document. Section 46 of the 1999 Constitution, a straight translation of section 42 of the 1979 Constitution, contains a specific clause that makes Nigeria's framework of civil and political rights enforceable. Agreements between Nigeria and other subjects of international law do not become domestic laws until the Upper Legislative Chambers explicitly promulgates the agreement and incorporates it into our local laws.

Recommendations

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

1. The Treaties Act, of 2004 should immediately be amended to make consultations with the relevant Committees of the Upper Legislative Chambers a compulsory treaty-making procedure in Nigeria.
2. The researcher believes that ratifying a treaty that contradicts existing legislation indicates a country's intention to adopt a new legal order. Domesticated treaties should rank higher than existing laws, and inconsistent laws should be declared null and void. The National Assembly plays a crucial role in implementing treaties, as the President must obtain approval from the National Assembly for them to be binding on Nigeria. This prevents default and ensures the country's compliance with international obligations.

Contributions to Knowledge

This study has contributed to knowledge in the following ways:

1. The study, based on Nigeria's 1999 constitution, municipal statutes, and international protocols, found that treaty making in Nigeria is faced with bureaucracy rather than law. To address this, capacity training should be provided for the bureaucracy and relevant agencies to assist in domesticating international laws and implementing international

legal instruments.

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