

Future Globalization and International law in the Contemporary Context

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ABSTRACT:

This paper showed a picture of the future globalization, how the globalization in future will be applied. The study explained the role of technology in the surge development of globalization. Furthermore, it illustrated the concept of future globalization and the concept of modern Globalization. Also it gave a close look at the impact of globalization on the international trade system. Moreover, in this paper the relations between international, state law and globalization were part of this work. The scope, types, and sources of International law were illustrated in details.

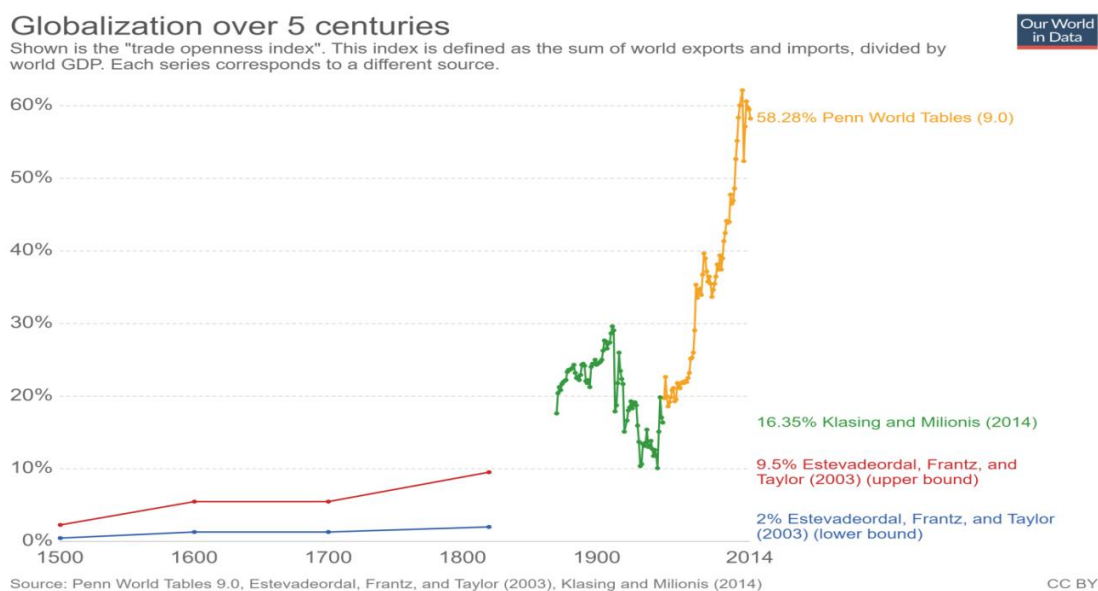
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I. INTRODUCTION

If we close our eyes and bring up to our mind a photograph of globalization, in our mind the photograph that will come is a picture of the trains, airplanes, cars, trucks, and ships etc. which are all related in common to the term of Globalization. Globalization of the past was not as same as the globalization of the present and globalization of the future. Globalization before the 19th century approximately was not existed. At the time of the colonialism, the term of globalization was confined within the borders of the colonialism. The movement of the goods flew between empires and colonies. The bloom of the concept of globalization, however, started in the 19th century, before that the international trade was not globalized because the decline of the liberalism and adoption of nationalism (figure 1). The flow of goods and commodities among the countries was limited to some nations. When the advances of technology launched, a surge growth in international trade occurred to start new phase of the globalization.

The mobility of goods by any kind of transportations from one place to another, not only inside the lines of the country, but also across the borders of the country is a shape of Globalization. The term of Globalization has been explained in different means; the financial times lexicon defines the term of globalization with a comprehensive definition as “the process by which national and regional economies, societies, and cultures have become integrated through the global network of trade, communication, immigration and transportation.”¹

¹ Financial Times lexicon, *The Definition of globalization*, FINANCIAL TIMES LEXICON, (Feb. 17, 2019, 09:00 AM)



(Figure no. 1 shows the evolution of the globalization for 5 centuries.)²

The old version of Globalization was concerned with the economic side of the world, such as trade, Foreign Direct Investment, and International Capital flows. The new version of Globalization is known as (Modern Globalization). The new version is wider than the old version of Globalization; nowadays, many activities have been included under the concept of modern Globalization such as culture media, technology, socio-cultural political and even biological factors like climate change. The main function of the globalization is to integrate the markets in the global economy, which lead to increase the interconnectedness of national economies.

The globalization has become possible due to the huge extension in the network of international law and the increase number of international organizations. International treaties and other types of agreements among countries set rules for international trade and finance, such as the GATT; foster cooperation on protecting the environment, such as the Kyoto Protocol; and establish basic human rights, such as the International Covenant on Civil and Political Rights.

In the era of globalization, the scope of international law has expanded rapidly. However, earlier the role of international law confined only on the relations amongst countries in narrow areas such as diplomacy, war, sovereignty, and territorial boundaries of distinct countries. But globalization has changed and expanded the scope of the international law in numerous ways. For example, due to the acceleration of the globalization, the international law coincidentally has accelerated like a vehicle for world's countries to cooperate in respect of international relations to include new areas i.e. the environmental and human rights.

²Esteban Ortiz-Ospina "et al", *Trade and Globalization*, OUR WORLD IN DATA, (Feb. 12, 2019, 04:00 PM), <https://ourworldindata.org/trade-and-globalization#the-two-waves-of-globalization>.

II. OBJECTIVES OF THE STUDY

- To identify the conceptual framework of future and modern globalization in the contemporary context.
- To identify the concepts of international law and state law
- To study the relationships between the globalization and state/international law
- To understand the role of technology in enhancement of future globalization

III. QUESTIONS OF THE STUDY

- Whether the future globalization has a clear conceptual framework?
- Are globalization and international law at odds with each other?
- Has technology a vital role in the proliferation of future globalization?
- Is future globalization the passport to the intelligent universe?

IV. RESEARCH METHODOLOGY

Due to the massive availability of data on the online sources, the current study got untold benefits from the official websites, essays, YouTube, legal reviews, legal reports, journals, magazines, books, and theses available in the internet. Therefore, the data which this research work depended on is secondary data and the method used to complete this work was secondary method as well.

V. CONCEPTS OF GLOBALIZATION

Simply, the concept of globalization is so broad, diverse, vague and unstable. The term globalization has been involved in different context and with so many distinct connotations. One can use the word globalization, he/she means what he/she determines it to mean. The word globalization can mean “the act, process, or policy of making something worldwide in scope or application.” In this concept of the dictionary, globalization refers to the borders amongst world’s countries. One can imagine that globalization can be seen as cross border relations, exhibits open border relations, and finally it is considered as trans-border relations. Globalization as spread of cross-border exchange is considered as the synonymous to internationalization. Hence, it is used to show the increase mobility of goods, investments, people, money, messages and ideas between nations. The Globalization is nothing but a picture of worldwide trade. Globalization as remover of the government

restrictions on international trade, travel, financial transfers and communications, it is synonymous to liberalization. Liberalization is an important term of a single borderless world.³

Under the globalization, the world becomes a single small village because the extension in concept of globalization in the field of Information Technology (IT). The revolution of Information Technology is unexpected; it is faster than any time. It has facilitated the way of communications amongst the world's nations. At any time you can call from your place any place in the world freely and easily irrespectively of the distance and borders. In relation with the aspect of the organizations, the globalization in the late of 20th century witnessed a huge expansion of business enterprises, civic associations and regulations. In regarding the trade untold movements of goods and services between the nations flew within the Trans world marketing exercise.

VI. GLOBALIZATION AND TECHNOLOGY

When we discuss about the concept of Globalization, we should mention to the role of technology in the globalizing the world. Technology is the crucial catalyst for the advancement of the modern globalized world. It has played a significant role to usher globalization to the bright age. Information Technology is the major breakthroughs of the technology in the term of globalization. Information technology, communication, and transportation have been the leader forces behind the early 21st century global market boom. Internet is the most significant advancement in globalization and information systems. A bulk of amounts of knowledge and information are available via Google, and it is impossible to find no answer to your question in.⁴

Even though the Internet has given users all over the world the facility to share information with each other, in addition to the internet, the telecommunications technology has been a proliferation in the facilitation of the global exchange of data. Before advancements of globalization businesses were limited to telephone calls and postal services to communicate with others. In the last century the fax was the main boom of the century people use it in everywhere to send and receive the messages throughout the world. Then unpredicted changes in the Information Technology occurred to expand the role of technology in the concept of globalization. It opened the closed doors in the communication and eased the way of telecommunicating with other people. Additionally to the said, the world in the first decades for the first century has witnessed unnoticed development in the world banking system; to illustrate that technology has facilitated the transfer of funds across the world, it also simplified the long-distance transactions. In one second, millions of dollars can be transferred to, it is a revolution the world has not seen ever before.

³ Naved Ahmad & Ejaz Ghani, *Governance, Globalization, and Human Development in Pakistan [with Comments]*, 44 JSTOR, 585, 587-589(2005).

⁴ Reference, *What Is the Role of Technology in Globalization?*, REFERENCE, (Feb. 19, 2019, 09:22 AM), <https://www.reference.com/world-view/role-technology-globalization-c12265564e15aac5>.

VII. FUTURE GLOBALIZATION

The future globalization is an image to the globalization in the future and how it will be used. Future globalization will be about what things we do, not just things we make. In other words, everything that we created it is the thing that we make. Service is the things we do; we cannot touch it or even see it. Services are our jobs .i.e. Working in the factory or farm is kind of service sector. To paraphrase that engineering is a job; we cannot touch it or see because it is intangible. Here is the question, do we can ship this kind of services or not? The answer is yes, it is possible in Future Globalization though its difficulty. But why is it easier to ship goods rather than services across borders? The answer is, the services have not globalized yet because the fundamental reality of many services. The service provider and the service buyer have to in the same place at the same moment. There are technical difficulties of getting service sellers from one country to the service buyers of another country. That is why globalization up to now has been mostly in goods not in services.

By the digital technology, the future globalization is possible; it tears down the walls in front of globalizing the services. It makes it easier for people who sit in one nation to do things in another place. Digital technology invented new kind of communications which is Tele-migration.⁵Tele-Migration according to Richard Baldwin is that “people sitting in one nation & working in offices in another nation”.⁶

International Law (IL)

Justice Antonin Scalia, a Justice of Supreme Court of United State said that “Law refers to a set of rules which in the civil field attach to private agreements or private action, certain consequences that will be enforced by the state. And which in criminal field attach to certain private actions penal consequences imposed by the state. In the narrowest sense, there is no law without a coercive enforcer of the law. In Latin words “nulla lex sine imperio” which means no law has been violated unless it has been prescribed by a governing power. At the other extremely law in its broadest sense means those rules governing inanimate and animate including human action then nature imposes.”⁷

Eventually, the international law (IL) or the law of nations (LNs) can be found in the united practice of civilized states or in multilateral treaties that those nations conclude. Basically, this kind of law relates only to the manner in which nations treated each other but gradually in modern times major part of it is conducted to the way countries deal with citizens of other nations and in fact to the manners of treatment countries that their own citizens. International law is the first type of law once removed in that its rules are ultimately enforceable only

⁵Richard Baldwin, *Why will future globalization be so different?*, TEDXLAUSANNE, (2018), (Feb. 14, 2019, 05:00 PM), https://www.youtube.com/watch?v=qHBoxRdd08o_&t=342s.

⁶*Ibid*

⁷ Justice Antonin Scalia, *Globalization and the Law*, MANUEL JOSE, (2009), (Feb. 12, 2019, 11:11 AM), <https://www.youtube.com/watch?v=N32kyOwcbMA&t=570s>.

to the extent that the country carries on to stick to the international norms or to the treaty or to the extent that other countries impose it to do so.⁸

VIII. DEFINITION OF INTERNATIONAL LAW

International law, also called public international law or law of nations, can be illustrated in easy way as the legal entity consists of rules, norms, and standards which can apply between sovereign countries and other bodies that are legally recognized as international actors.⁹ International law also can be defined in a simple way as the study of relations between nations or actors that cross national borders.

IX. DIVISIONS OF INTERNATIONAL LAW

Public International Law

Public international law controls the relationships between and among actors/nations with global legal personality: countries with sovereigns and other international nations, for instances inter-governmental organizations and individual natural persons. The legal personality is responsible for these entities means that they have under international law all rights, protections, responsibilities and liabilities.¹⁰

➤ Sources of Public International Law:

1. International conventions (treaties)
2. International custom
3. General principles of law recognized by civilized nations
4. Judicial decisions and the teachings of the most highly qualified publicists
5. International humanitarian law (IHL)
6. International human rights law (IHRL)
7. International refugee law
8. International criminal law (ICL)
9. International disaster response laws, rules and principles (IDRL)¹¹

⁸*Ibid*

⁹ Malcolm Shaw, *International Law*, ENCYCLOPAEDIA BRITANNICA, (2016), (Feb. 16, 2019, 07:23 PM), <https://www.britannica.com/topic/international-law>.

¹⁰ Hma Haider, introduction to International law, GSDRC APPLIED KNOWLEDGE SERVICES(2013), (Feb. 16, 2019, 08:25 PM), <https://gsdrc.org/topic-guides/international-legal-frameworks-for-humanitarian-action/concepts/introduction-to-international-law/>.

¹¹ *Ibid*

Private International Law

Private international law has a long history, but it is ignored by international law for long time. Private international law has a massive practical impact in a globalized economy. Private international law governs the areas of conflict between national laws and international actors.¹²It covers the areas that dealing with the clash of international and domestic laws. Private international law is one of branches of domestic law. Its jurisdiction starts when a court hears a claim with a foreign element.

➤ Sources of Private International Law:

- a. National legislation
- b. Decisions of national courts
- c. Treaties
- d. Uniform laws
- e. Regional instruments such as EU legislation
- f. Writings of jurists.¹³

X. STATE LAW, INTERNATIONAL LAW AND GLOBALIZATION

Globalization and country laws are peculiar with each other. The idea of globalization brings up to the mind pictures of walls being torn down boundaries ceasing to be existed, homogenization sweeping the planet. State law has in tradition way been an instrument to erect barriers. Globalization blooms on borders and emphasizes cultural and regional differences. Commercial globalization, however, without state law to organize its issues is chaos. It is impossible that International capital can enter a country where the rule of law does not apply. It is not fundamental though it is certainly useful that the rules of state law are similar to other nations' rule. They can be relied upon be forced but besides being crucial for the adoption of capital, national law is an ultimately so important for the international harmonization of commercial rules and policies of economy. When the harmonization is provided by the International Law (IL) Law enforcement will be ultimately imposed by state law. The same will be applied for cultural globalization; it cannot happen without the help of state law. For instance, globalization of the principle of rights of equality for women undoubtedly cannot take place until state laws abridging women's rights are repealed. In the ultimate analysis, for any kind of globalization, state law is

¹² Greg Dixon, *International law*, YOUTUBE (2014), (Feb. 16, 2019, 12:23 PM), <https://www.youtube.com/watch?v=G6PMzBFtCww&t=409s>.

¹³ Hester Swift, *an introduction to legal research in private international law*, IALS LIBRARY GUIDES (2018), (Feb. 18, 2019, 01:11 AM), <http://libguides.ials.sas.ac.uk/privateinternationallaw>.

necessary. It perhaps does not lead to the way (movies, books, international contacts may prepare a society for women's rights) but it has to go along.

XI. CONCLUSIONS:

Today's world will not be the same after ten years from now. Globalization has been changing all aspects of life. The globalization era launched in the very beginning of the 19th century than it stopped when the World War I and II started. After the establishing the United Nations, the modern globalization evolved in proliferation way. Nowadays, the universe has become a one small town; globalization has torn down all walls amongst nation states. The flow of capital from one country to another becomes easier than before ever. In addition to the capital flow, the mobility of goods turned to be faster than earlier. In this context, globalization has expanded the international trade which led to increase the economic growth of the world's economy. With that greater expansion, many issues has come along with, therefore the international law is the only body concerned to solve the problem internationally among nations. Globalization and International law cannot be separated, each of them complete the. The Private International law governs the areas of involving a foreign element with national element. But the Public International Law covers the areas between countries and international organizations. Globalization raised vital challenges to the international law, which update developments in many fields in which states and international organizations have to cooperate even though different laws, enforcement priorities, and cultures.

XII. REFERENCES

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