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How Far is Public International Law Still a Weak Law?: Critical Reflection and Suggestions for Improvement

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ABSTRACT

"International law is law improperly so called"

- John Austin

Numerous factors are instrumental in strengthening the public international law and also in determining the effectiveness of the same. The conflict in laws arising due to varied cultures and backgrounds is bound to arise and weaken the enforceability of public international law. The paper shall deal with the impact of the actions and plans of the international bodies on the enforceability of public international law. The development of a global community is reflected in the evolution of public international law. In 1930, the first Conference for codification of public international law was held at Hague Convention. The above stated sources are the only codification that expressly state what rules shall be applicable for resolving disputes of public international law. The adherence to the treaty by the contracting parties reflects the strength and effectiveness of the treaty/convention (public international law). There are no legit sources to determine bare text or codification of public international law. It would be contrary to public international law for a sovereign nation to execute penal sentence handed down by the tribunals of another sovereign nation. Public international law is still weak and at an evolving stage which requires to be cemented at various areas to strengthen its authority and enforceability. The requirement of public international law is echoed at this stage. The legal principles that shall govern public international law are neither strictly documented nor codified in any manner. Public international law is a vast area and requires alterations for it to be more authoritative in the international community. This has lead to a vague customary public international law. This leads to the issue of no distinct and clear law governing matters of public international law. There are no effectively powerful courts to interpret International Law and enforce the same.

***Keywords**: Public International Law, United Nations, Sovereign, State.*

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I. WHAT IS PUBLIC INTERNATIONAL LAW?

The development of a global community is reflected in the evolution of Public International Law ("**PIL**"). Law is the command of a superior (sovereign) to an inferior. There is no such superior to command the international law. Sovereign states do not consider any entity to be superior in international relations. Law is obeyed b due to the inherent fear of punishment, and international law has no such sanctions or coercive authority. It is at sheer will that the states obey international law, and it is prone to be disobeyed at the will of the states. No physical punishment follows such breach. Holland referred to international law as the 'vanishing point of jurisprudence.'[2]

Public international law has evolved from customary practices and principles of natural justice. It is a form of positive morality and depends on the nation-states' will for its effective standing. Sovereignty is usually considered the grundnorm of international society. An individual has a natural claim for the protection of particular self-interests such as freedom, life, and property. The norms of sovereignty and norms of core humanitarian principles conflict in the international system and pose a threat to the effectiveness of public international law. International law is seen as a negation of the sovereignty authority of the state. Every state is internally sovereign, and its authority over its subjects is absolute and unlimited.

Custom has been the chief source of international law, and as such it is an uncertain law, and it is difficult to determine the number of reiterated acts which constitute general or regular observance; and in addition there have been too few cases presenting substantially the same facts to make it possible to extract a standard set of rules. Though the states have bound themselves by treaties, they are too limited in their authority to be of any significant value in directing the codification of international law.

'Struggle for law' is evident with regard to public international law due to the absence of compulsory dispute settlement regime in most cases and the corresponding importance of self-help to enforce rights. The larger powers prefer to be the judges of their own causes, and the sheriffs as well, and resist any plan to bring about an obligatory submission of dispute to judicial or other determination.[3]It would be contrary to public international law for a sovereign nation to execute penal sentence handed down by the tribunals of another sovereign nation. There are no effectively powerful courts to interpret International Law and enforce the same.

[2]Aaron Fichtelberg (2010), Review Of Law at the Vanishing Point: A Philosophical Analysis of International Law, *American Journal of International Law*, Vol. 104
[3] Supra note 3

The weakness of PIL was witnessed as early as when the League of Nations posed as a massive failure to curb the fatal World War II. The United Nations is a child of the World War II and the only international organization with a membership of 193 states. UN is a resort for the nations to have international conflicts and interests addressed to. The paper shall deal with the impact of the actions and plans of the UN on the enforceability of public international law.

Numerous factors are instrumental in strengthening the public international law and also in determining the effectiveness of the same. The factors are subjective and mainly pertain to the interests of the states qualifying as subject under international law. The conflict of principles of regionalism and universalism along with the issue of codification and non binding judgments of international courts are all factors behind weak public international law.

II. APPLICATION OF PIL – CLASH OF REGIONALISM AND UNIVERSALISM

Public International law spans over around 195 states spread over the globe. The conflict in laws arising due to varied cultures and backgrounds is bound to arise and weaken the enforceability of public international law. This is the issue of regionalism versus universalism which jeopardizes the applicability of public international law uniformly in all states over the world. There are two perspectives, wherein one views that an international organization should function as per the background and practices of a region, wherein, the other perspective views that an international organization should take into account the practices applicable worldwide.

The regionalist view tilts towards the idea that territorial proximity counts for a great deal in interstate relations, interstate cooperation, and interstate organization. States and peoples living at great distances from one another, as a result of this factor, of different races, religions, economic conditions, and general culture patterns, cannot understand or appreciate one another effectively. They cannot, even if they could summon up sufficient perception or imagination for this purpose, act effectively at great distances from their home grounds. For these two reasons above all others, the regionalist opposes a superficial and ineffective universalism.

Regionalism is mainly driven by the benefits that states expect to reap from transacting with each other, which may be in the form of subsidized trading costs, flexible application of policy, technological innovation stemming from greater competition, higher investments, and heavier weight in international markets and forums.[4]

International cooperation, and even institutional organization, is needed today, and there are

[4] Tanja A. Börzel, Theorizing Regionalism: Cooperation, Integration, and Governance, available at http://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199682300.001.0001/oxfordhb-9780199682300-e-4 (last accessed on 19.11.2021)

national states all over the world. The national states aim toward a harmonious growth and are ready to comply with the universally acceptable principles for attainment of the same. This is the theory of universalism which is regarded as superficial and partially arbitrary.

An international organization, a union of states and its organs or agencies may be 'regional' in a number of different senses. It may be regional in membership; it may be regional in its area of operations; or it may be regional in its significance. The union of Central American states, while it lasted, was regional in all three senses. SAARC is a regional union of nations and intergovernmental group of unions in South Asia.

The volume of intra-regional trade is curtailed due to the ever-persistent conflict between India and Pakistan, and the apprehensions of the smaller countries on the dominance of India in regional trade.[5] If the Indo-Pak rivalry poses as a constraint to SAARC, then the friendship between the two could be the stepping stone to implement its agenda on various gripping issues including free trade, collective action against terrorism and transnational crimes.

The issue of sectionalism or sectarianism versus the common interest is under highlight for it is the underlying problem present in the outlook of regionalism. It is the organization insisting on regionalism in principle which is the roots of the issue. In principle, the organization which professes to be open to all nations is not regionalist in character, particularly if it has a general membership in fact and a program of action of a general character. Economic globalization that characterizes today's economy results mainly from transnational corporations and the enormous enthusiasm of resurgence regionalism mainly witnessed in Europe and in other parts of the world.[6]

NATO, an intergovernmental military alliance founded under the North Atlantic Treaty signed on 4 April 1949, was authorized by the United Nations to intervene in Libya on humanitarian crises while there was no action taken at the time of conflicts in Rwanda. The regional organizations function on the basis of self interest as opposed to common interest. The intervention of NATO in Yugoslavia was against the United Nations Charter and without the backing of the United Nations Security Council. The UN Charter refrains members from using threat or force against any territory or political state. [7]

While nations at a distance from one another may vary in interest for reasons concerning their

[5] Ahmed Zahid, B Stuti, Interstate Conflicts and Regionalism in South Asia: Prospects and Challenges; available at: http://sam.gov.tr/pdf/perceptions/Volume-XIII/spring-summer-2008/Ahmed-Bhatnagar.pdf (last accessed on 19.11.2021)
[6] Supra Note 6
[7] United Nations Charter, art. 2(4)

 [ISSN 2581-5369]

location, and may differ in race, social institutions, and other features also because of their remote separation, the opposite may also be the case, and remotely separated nations, the cases of Australia and Canada resemble one another in more ways than one. Conversely, the nations of a given area may vary so widely in race and social patterns that regional unity means little or nothing. The view of regionalism is open to two serious objections: firstly, neighbouring nations are not always logical or reasonable cooperators, while distant nations often are.

In several situations, regionalism has been advocated, not with a view to render international relations and cooperation more effective, but with a view to preserve greater national liberty of action under the guise of other intentions or merely to obstruct the progress of international organization in general.

The trend is from regionalism to universalism but not a trend strong enough to eliminate the former altogether. Neither universalism nor regionalism can be adopted as final and exclusive principles for the purpose of increasing the effectiveness of public international law. The conflict present between the two views shall be constantly in growth with the development and progress of nation-states and their self interests.

III. CODIFICATION OF INTERNATIONAL LAW

The legal principles that shall govern public international law are neither strictly documented nor codified in any manner. There are no legit sources to determine bare text or codification of public international law. This leads to the issue of no distinct and clear law governing matters of public international law.

In 1930, the first Conference for codification of public international law was held at Hague Convention. It developed preparatory materials for the codification in 1930 the Research published a Collection of Nationality Laws of Various Countries edited by Richard W. Flournoy and Manley 0. Hudson. However, no concrete codification was laid out on the Recognition of States.[8]

Article 38 of Statute of The International Court of Justice,[9] lays down specific sources to be applicable while determining disputes in international law as:

- international conventions that establish rules expressly accepted by the contesting states;

[8] United Nations Documents on the Development and Codification of International Law, American Journal Of International Law, Vol. 41 (4), October 1947.

[9] United Nations, *Statute of the International Court of Justice*, 18 April 1946, available at: http://www.refworld.org/docid/3deb4b9c0.html (last accessed on 19.11.2021)

- international custom, that fall under general practice accepted as law;
- the fundamental principles of law accepted by civilized nations;
- judicial orders and teachings of the qualified publicists of various nations, as secondary means for determination of principles of law.

The above stated sources are the only codification that expressly state what rules shall be applicable for resolving disputes of public international law. The international conventions are agreements executed by states voluntarily and include principles recognized by such states party to the convention. The international customs are the practices being followed uniformly since time immemorial by states and have become generally accepted principles such as principles of natural justice. The general principles of law accepted by nations include rule of law and principles of justice and equity.

For codification of public international law, the procedure to be followed cannot be that followed for the codification of national or municipal law. For codifying municipal law, states have customs and definite sources of law to refer to and draw the law from. The judicial precedents are also available for states to draw their laws from in case of specific issues. The Vishaka guidelines,[10] enunciated by the Supreme Court of India in 1997, were instrumental in enactment of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 in India.

The codification of legal principles, though it includes certain loopholes and errors, it forms a systematised and comprehensive law which is authoritative. The codification of law brings clarity to the rules and makes them more accessible in nature. International law has expanded with the growing communication between nations, and there is a need for setting down a standard of rules and laws for regulating the same. The codification of international law requires a more comprehensive and organized set of rules for regulation. The sovereign states do not share any similar background, and this leads to rise in futile effort to bend a formerly diverse system to the rising requirements of the global community.

For this process of growth and expansion, there has been no international legislative body capable of collecting and consolidating away outworn traditions and replacing the obsolete customary rule by a new statutory one of immediate obligations. Customs form the primary source of law, however, international customs are subjective in nature as they vary from different nation-states and is thereby uncertain in its applicability.

[10] Vishaka and Ors. v. State of Rajasthan and Ors. AIR 1997 SC 3011

 [ISSN 2581-5369]

In cases of bilateral treaties or conventions, there is no strict obligation on the sovereign states to comply with the terms of the treaties/conventions. It is upon the contracting parties to adhere to the terms of their agreement and its enforceability.[11] Adherence to a treaty by the contracting parties directly reflects the strength and effectiveness of the treaty/convention (public international law).

In case of charters such as The Universal Declaration of Human Rights, the draft has been formulated by representatives with different legal and cultural backgrounds from all regions of the world. The enforceability in terms of human rights is comparatively fragile as opposed to treaties pertaining to finance and trade relations. There are no competitive market forces that push a state to abide by the human rights charter, however, the state's self interest and economic growth push it to strictly comply with finance and trade-related treaties.[12] The codified treaties and conventions only govern the contracting parties who have sovereign authority.

The absence of a stringent international body to authoritatively codify legal rules into a body of set laws has weakened the applicability and enforceability of public international law. The general principles of laws are not universally uniform and acceptable. The issue of codification has posed as such a significant threat for there remains no authoritative body of rules to be interpreted or enforced. To cement the unity of the nations a new constitutional law is needed which only an international legislature can enact.

IV. INTERNATIONAL FORUMS – COURTS

The existence of treaties, conventions and charters declare rights and liabilities of states. The same is bound to result in violation of any right or inadequacy in discharge of the liabilities. The settlement of such violations presses upon the need of an impartial and independent body of dispute resolution. International law was a self judging system. Each state decided for itself whether its rights had been violated and the response thereof. Enforcement may be understood to mean "*the act of compelling compliance with a law*".[13]

States have access to a wide and evolving range of dispute resolution procedures. The spectrum including formal judicial forums, such as the International Court of Justice, the International Criminal Court or the International Tribunal for the Law of the Sea, to quasi-judicial processes, such as the World Trade Organization's dispute settlement procedure. The vast range of dispute

[11] Neumayer, Eric (2005), Do International Human Rights Treaties Improve Respect for Human Rights? London: LSE Research Online; available at http://eprints.lse.ac.uk/612/ (last accessed on 19.11.2021)
[12] Supra note 10
[13] Black's Law Dictionary, 8th ed., 2004, 569

resolution forums has now become a concern for infringement on each other's jurisdiction.

The International Court of Justice is the principal judicial organ of the UN for dispute settlement and peacekeeping.[14] ICJ remains a potent symbol of the chances of an international legal system. In 1974, the General Assembly made the submission of disputes to ICJ mandatory by all members.[15]

Non compliance of ICJ judgments, would have a caustic impact both on the ICJ and the broader efforts to institute meaningful settlement of international incidents through adjudicatory means. In *Armed Activities on the Territory of the Congo (DRC v. Uganda)*, Judge Oda warned that "*the repeated disregard of the judgments or orders of the Court by the parties will inevitably impair the dignity of the Court and raise doubts as to the judicial role to be played by the Court in the international community*".[16]

In *Nicaragua vs. United States,*[17] a suit was instituted against the U.S.A by Nicaragua for a dispute concerning responsibility for military and paramilitary activities in and around Nicaragua by the United States of America. The compulsory submission to ICJ's jurisdiction was contented under Article 36 of ICJ applicable to all member states accepting the statute of ICJ.[18] Reliance was also made on the Treaty of Friendship, Commerce and Navigation signed between the parties providing an independent basis for jurisdiction under ICJ Statute. US contented the jurisdiction to be outside the purview of ICJ. The ICJ decided on its jurisdiction as within its ambit. After the decision on jurisdiction, the US did not participate in the further proceedings and also terminated the Treaty of Friendship between the two states.

The ICJ decided the case on merits and ruled held that the United States had violated both treaty law and customary international law and ordered the US to make reparations to Nicaragua. The US did not abide by the judgment of the ICJ. Nicaragua moved the UN Security Council but could not have any resolution adopted due to United State's veto in the Council.[19] This was an outright defiance of the ICJ's decisions and an unsuccessful compliance of its judgment.

Gabcíkovo-Nagymaros Project (Hungary vs. Slovakia)[20] referred to the Budapest 1977 treaty

[14] United Nations, *Statute of the International Court of Justice*, art. 1
[15] UN Res No. 3232, Review of the Role of the International Court of Justice, 12 Nov. 1974, UN Doc. A/ RES/3232 (XXIX).
[16] Armed Activities on the Territory of the Congo (Democratic Republic of Congo v. Uganda), Judgment ICJ Rep. 2005, p. 168.
[17] Provisional Measures [1984] ICJ Rep 169; Jurisdiction and Admissibility [1984] ICJ Rep 392; Merits [1986] ICJ Rep14
[18] Ibid
[19] Id.
[20] Gabcíkovo-Nagymaros Project (Hungary/Slovakia) [1997] ICJ Rep 1, at paras 15-22, 37 ILM (1998) 162.

entered into between Hungary and the then Czechoslovakia entered into a treaty to jointly build the Gabcíkovo-Nagymaros Project, a system of dams on the Danube River. While Czechoslovakia's part was at an advanced stage of completion by 1989, Hungary unilaterally terminated the project, for fear of damage to Budapest's water supply and other environmental concerns.[21] On completion of the project, Slovakia (successor of Czechoslovakia) started damming the river and both submitted this conflict to ICJ by special agreement in 1993. [22] In 1997, the ICJ ruled in favour of contentions stated by Slovakia and held the 1977 treaty as binding on the parties and Hungary was to comply with the same. Hungary accepted the judgment; however, Slovakia had to file for additional judgment before ICJ for Hungary's non compliance with the implementation of the judgment in 1998.[23] The proceedings before the ICJ halted post changes in Slovakia's government. Even though talks between the two resumed in 2004, no concrete action was taken to implement the judgment.[24] The ICJ's judgment led to no resolution or any peace on the conflict between the two states.

In *Cameroon v. Nigeria: Equatorial Guinea Intervening*[25] the dispute was over the boundary in Lake Chad and the Bakassi Peninsula between Cameroon and Nigeria for a very long time which was sought to be resolved through bilateral negotiations. Cameroon submitted the case unilaterally to ICJ in 1994. It invoked the ICJ's jurisdiction post both states' declarations adhering to jurisdiction of the ICJ Statute. At first, Nigeria contested the jurisdiction but proceeded to participate later. Nigeria contended that its claim of Bakassi had three distinct foundations. Firstly, Nigeria's prolonged occupation of Bakassi constituting a historical consolidation of title; secondly, Nigeria's peaceful possession, acting as sovereign, along with the lack of protest by Cameroon; and thirdly, Nigeria's manifestations of sovereignty in the area, together with Cameroon's submission in Nigerian sovereignty over Bakassi.[26]

In 2002, ICJ awarded the Lake Chad boundary, Bakassi Peninsula and around thirty villages to Cameroon and handful to Nigeria. The Court ruled that the growth over time of the toponomy and Nigerian population in such settlements, and their relation with Nigeria did not, de facto, confer title over the disputed territory and could not be instrumental in a claim for historical

[21] Supra Note 21
[22] Special Agreement for Submission to the International Court of Justice of the Differences Between Them Concerning the Gabcíkovo-Nagymaros Project (Hungary/Slovakia), 7 Apr. 1993, 32 ILM (1993) 1293.
[23] Ibid
[24] Id.
[25] Land and Maritime Boundary between Cameroon and Nigeria [2002] ICJ Rep 303
[26] Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria; Equatorial Guinea Intervening), Pieter H. F. Bekker, The American Journal of International Law, Vol. 97, No. 2. (Apr., 2003), pp. 387-398.

consolidation of title.[27] Post-judgment, Nigeria issued an official statement which appeared to accept parts of the decision it considered fair or favourable, while rejecting other parts it found 'unacceptable'. It reflects an indifferent approach of Nigeria towards the judgment and its acceptance. Nigeria succumbed to the pressures from UK, USA and France and it is only post the pressures from foreign diplomats, Nigeria and Cameroon progressed on the implementation of the judgment.[28]

The effectiveness of the rulings of ICJ is determined only on the basis of self interests which either party shall derive from such judgment. The decisions are implemented in furtherance of political and economic interests deemed best for the parties. The disputes resolution by ICJ cannot be enforced entirely on any state for the UN recognizes the sovereignty and independence of all member states. However, political pressures compel the third world or economically tiny countries to comply with the judgments.

V. THE PART PLAYED BY THE UNITED NATIONS

The United Nations Organization is the apex international body set up by a number of states for peacekeeping, post the fatal World War-II and the failure of the League of Nations. The UN Charter, in its Preamble, set an objective: "*to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained*".[29] Ever since, the development of, and respect for international law has been a vital part of the work of the Organization.

The organs of the United Nations are the International Court of Justice, international tribunals and ad hoc tribunals, International Tribunal for the Law of the Sea further the interest of justice in cases of conflicts between member states of the UN. The UN was created in 1945 to ensure international security and safeguard fundamental human rights. It performs varied functions and tasks but has often failed to fulfill its primary responsibilities. For example, the world has witnessed numerous wars even post 1945 after UN's creation. In 2000, the UN ordered a review of its peacekeeping operations. The historic Brahimi Report,[30] chaired by Lakhdar Brahimi (from Algeria) reviewed the peacekeeping operations and remarked them as a repeated failure of the United Nations.

In 1992, the Bosnian army initiated a drive to 'ethnically cleanse' the non-Serbian inhabitants

[27] Ibid 22
[28] Supra Note 21
[29] U.N. Charter, 1945
[30] "Comprehensive review of the whole question of peacekeeping operations in all their aspects," (Brahimi Report) 21 August, 2000,[UN doc. A/55/305—S/2000/809]

from much of Bosnia. Siege warfare, murder, torture, kidnap, rape were employed to execute the drive and force it upon the inhabitants. The abuse was aimed at wiping out the entire ethnic race or group, specifically, the Bosnian Muslims and other non-Serbs. The UN had previously declared the town one of the safe areas, to be "*free from any armed attack or any other hostile act*".[31]

A 1994 report by the U.N. Secretary-General,[32] made clear that U.N. troops were authorized to use force to protect the "safe areas" but that, due to a lack of troops, the U.N. could not guarantee the defense of the "safe areas."[33]

On July 11, 1995, towards the end of Bosnia's 1992-95 war, Bosnian Serb forces swept into the Srebrenica enclave and executed 8,000 Muslim men and boys in the days that followed, resulting in the worst massacre in post-Second World War European history. The Dutch troops failed to report any potential attacks to avoid the siege and leave from the site.[34]

The failure of UN peacekeeping and intervention may be attributed to numerous reasons. Firstly, they are not adequately armed enough to counter the offensive. Secondly, the foreigners serving do not share any personal interest and flee at times of severe risk to their own life. Thirdly, they sexually exploit local female crowd and become transmitters of diseases by sexual relations and are rarely or never punished for their heinous acts. Fourthly, they avoid being in active positions to defend the civilians of a foreign nation. A lack of common bond, background and personal touch make the peacekeeping missions a failure.[35]

For a period of 1995-2002, UNMIBH (United Nations Mission in Bosnia and Herzegovina) exercised a wide range of functions related to the law enforcement activities and police reform in Bosnia and Herzegovina. It was also instrumental in coordinating other UN activities in the country pertaining to humanitarian relief and refugees, demining, rehabilitation of infrastructure and economic reconstruction.[36]

From the period of 1992 to 1994, up to 30,550 military and security personnel were deployed to Somalia for peacekeeping. Securing of ceasefire agreements was also in loop during the same period to bring in harmony among several political groups. The peacekeeping mission

[31] Id.
[32] U.N. Security Council, "Report of the Secretary-General Pursuant to Resolution 844 (1993)," S/1994/555, May 9, 1994.
[33] Human Rights Watch, *The Fall of Srebrenica and the Failure of UN Peacekeeping Bosnia and Herzegovina*, October 1995, Vol. 7 (13); available at: https://www.hrw.org/sites/default/files/reports/bosnia1095web.pdf (last accessed on 19.11.2021)
[34] Ibid
[35] Supra note 21
[36] United Nations Mission in Bosnia and Herzegovina, Available at https://peacekeeping.un.org/en/mission/past/unmibh/mandate.html (last accessed on 19.11.2021)

resulted in a massive failure causing the death of numerous Pakistani and US soldiers who were dragged on the streets of Mogadishu. The mission was suspended by the US and it marked a notable failure on the system of the peacekeeping interventions by the UN.[37]

Post Somalia's tragedy, the UN Commission of Inquiry stated, "*The U.N. should refrain from undertaking further peace enforcement actions within the internal conflicts of states.*"[38]

The UN Convention on Law of the Sea, was signed in 1982 by more than 150 countries. It defines piracy to include illegal acts committed on the high seas for personal ends.[39] The convention does not discuss about piracy on territorial waters as state responsibility of patrolling and policing is assumed by the convention. Somalia serves as a threat to major vessels and the attacks of piracy pose a crucial threat to international trade. The upsurge of piracy in the last decade has resulted in an exposure of the weakness of International Law of Sea, adopted by the UN.

Another landmark failure of the UN peacekeeping mission was its lack to prevent the 1994 Rwanda genocide in 1994 that claimed lives of up to one million people. The UN representatives perceived possible tensions between Tutsi and Hutu government but failed to stop the tragic outbreak. The military was not allowed to use military force to achieve its aims, was limited to investigating breaches in the cease-fire. More than 2,500 UN peacekeepers were withdrawn after the murder of ten Belgian soldiers.[40] Post outbreak of violence, the UN peacekeepers focused on evacuation of their own expatriates and people from other nations. The UN Security Council ignored Nigeria's draft expressing concern over Rwanda's genocide and failed to identify the presence of events in Rwanda as genocide and respond to it. [41]

Kofi Annan, who was then head of UN peacekeeping forces, was accused of failing to pass on warnings of the massacre. The UN soldiers did not return to Rwanda until June, by which time hundreds of thousands of people were dead. The UN was accused of "*leaving Rwanda to its fate*".[42]

The failure of the United Nations is emphatic of the fact of the weakness of public international law and its shortcomings. The UN being the apex international organization failed numerous times with fatal results of mass destructions and genocide. The peacekeeping of UN is

[37] "Report of the Secretary-General on the Situation in Somalia Submitted in Pursuance of Paragraph 13 of Security Council Resolution 954 (1994)," 28 March, 1995 [UN doc. S/1995/231]
[38] Id.
[39] United Nations Convention on the Law of the Sea (1986), art. 101
[40] "Report of the Independent Inquiry into the actions of the United Nations during the 1994 genocide in Rwanda," 15 December, 1999 [U.N. doc. S/1999/1257].
[41] Supra Note 41
[42] Id.

subjective and limited to areas where there is active intervention in the best interest of the nations in conflict.

The failures of the UN chains down the authority of the charters and statutes drafted and adopted by the organization. The faith of the international community in the UN was shaken to the core shortly after the Rwanda, Bosnia and Somalia tragedies, among others. This has negatively hampered the promotion of human rights and aim of 'no war' by the UN.

VI. CONCLUDING REMARKS

Public International law is a broad subject which deals with nations across the globe and thereby becomes a vast topic. The nations in each part are distinct from each other due to weather, cultural and ethnic backgrounds. It reflects a massive gap in the customs practiced by each nation-state. The observance of various rituals and customs differ to a great extent in terms of each nation. With the growth in technology and development, the interaction between states have become more common a phenomenon and the exchange and transfer of data and technology has triggered the states to develop economic and trade relations with each other.

The interactions between nations may give rise to disputes and require monitoring to ensure no nation states' rights are infringed or violated. The requirement of public international law is echoed at this stage. The development of this law faces first clash of regionalism and universalism. The nations aim toward the most possibly favourable laws and rules which are akin to their national customs and rules.

However, in international relations, the best interests of both states are to be observed in order to ensure a successful relation. Universalism echoes the need of its presence at this stage. This clash of regionalism and universalism jeopardizes the effectiveness of an international treaty or convention.

The applicability of rules can be ascertained only after it is drafted and laid down in a set format acceptable to all or majority nations in the international community. A uniform set of legal principles to be binding on all states is not present. This has lead to a vague customary public international law. An international body has to set up a committee with representation of all states for codifying the legal principles acceptable and applicable to all nations.

The International Court or tribunal derives its powers from a statute of the United Nations, or agreement by the contracting parties (nations). Submissions before an international court poses arduous challenge when made unilaterally. In a bilateral agreement or mutual acceptance to submission of jurisdiction to a court, the issue of representation by states arise which is

 [ISSN 2581-5369]

subjective and dependent only on a state's whim.

The rulings of international courts may be accepted as binding before initiation of proceedings, however, no state can be forced or bound fully to implement the judgment. The sovereignty of states is recognized and respected by each state and international organization. This makes the implementation of judgments at the disposal of the nations who implement such ruling only in self interest and benefit. The judgments are thereby not backed by any sanctions powerful enough to curb the no compliance by states.

The United Nations is the apex international organization to maintain the international relations and peace in the global community. However, since the inception of the UN, remarkable failures have been witnessed on several occasions. The genocide and human rights violation on several occasions has shaken the faith in the UN system. The violation of the statutes and conventions of the UN has weakened the authority of public international law which is often synonymous with the United Nations Organization.

Public international is still weak and at an evolving stage which requires to be cemented at various areas to strengthen its authority and enforceability. The cooperation and understanding of all nation-states is quintessential to the reinforcement of public international law. States are the foremost subjects of public international law and thereby, the state must be in complete acceptance of such law in order to be governed by the same.

The weakness of such a law is directly related to the self interest that is served upon adhering to such law. It is thereby a weak law which is only complied with for favours and benefits and not for being governed. A change in attitude of the nations shall lead to strengthening of the now weak public international law Common interest and universal peace is sought for which strengthening the presently weak public international law is a must.

VII. SUGGESTIONS

Public international law is a vast area and requires alterations for it to be more authoritative in the international community. The states must jointly set us grievance redressal forum wherein each nation-state shall raise any problems being faced by it, whether economic or political. The forum of nations shall then address this issue by formulating a constructive plan of action executable by the aggrieved nation. A committee constituting representatives from the legislature of the states should be set up. Member of the legislature from each nation shall be able to contribute and codify legal principles acceptable uniformly to all states. The UN must take steps to make all its decisions transparent and without bias or interest of only superpowers. The working of all committees must be more transparent and without any centralized decision

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making authority. The submission of disputes should be by way of international mediation or negotiations, which shall ensure that the states arrive at a compromise or settlement and not be bound by any judgment of an authority. The sovereignty of the state shall be respected, and the parties shall arrive at a mutual settlement terms for resolving the issues.

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