COURSE GUIDE

POL 452
INTERNATIONAL LAW AND ORGANISATION

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INTRODUCTION

POL 452 International Law and Organisation is a one semester course in the final year of B.Sc. (Hons.) degree in Political Science Department. It is a three-unit credit course designed to enable you have a bird's eye view of the salient issues in international law and organisations. This is especially in the face of increasing economic competition in the international arena. The course begins with a brief introductory module, which will help you to have a good understanding of the issues at stake in the terrain of international law and organisations. Such issues include; Meaning of International Law; Sources of International Law; The State as a Subject of International Law; Relationship between International Law and Municipal Law; Topical Issues in International Law. The study units are structured into modules. Each module is structured into 5 units. A unit guide comprises of instructional material. It gives you a brief of the course content, course guidelines and suggestions as well as steps to take while studying. You can also find self–assessment exercises for your study.

COURSE DESCRIPTION

This course examines the nitty–gritty of the international law and organisations. The course also looks at the trajectory of the character of international law and organisations of global world since the inception of the States as subject of the international law. The fundamentals of international laws such as; law of Treaties, law of the Seas, environmental law, criminal law and humanitarian law has been be revisited. The course moves further to consider the evolution of international organisations, approaches, nature and character that are as important as the heart of the course itself, which must be established for ease transactions towards the understanding of global economic development initiatives, issues and challenges in Africa, especially in the 20^{th} and 21^{st} century. The stratification of regional economic communities will be introduced as well. In this direction, this course will examine the understanding of international law, sources of international law and the relationship between international law and municipal law in the first module.

COURSE AIMS AND OBJECTIVES

The primary aim of this course is to provide students of political science with a comprehensive knowledge of International law and organisations. However, the course specific objectives include enabling you:

i. have a working knowledge of international law and organisations by understanding some of the concept and theories of international development;
ii. familiarise yourself with institutional framework such as global economic development initiatives in the 20th and 21st Centuries; and
iii. have understanding on the cross–current issues on cultural organisations for fostering world peace and social development.

The specific objectives of each study unit can be found at the beginning and you can make references to it while studying. It is necessary and helpful for you to check at the end of the unit, if your progress is consistent with the stated objectives and if you can conveniently answer the self–assessment exercises. The overall objectives of the course will be achieved, if you diligently study and complete all the units in this course.

WORKING THROUGH THE COURSE

To complete the course, you are required to read the study units and other related materials. You will also need to undertake practical exercises for which you need a pen, a note–book, and other materials that will be listed in this guide. The exercises are to aid you in understanding the concepts being presented. At the end of each unit, you will be required to submit written assignment for assessment purposes.

At the end of the course, you will be expected to write a final examination.

THE COURSE MATERIAL

In this course, as in all other courses, the major components you will find are as follows:
1. Course Guide
2. Study Units
3. Textbooks
4. Assignments

STUDY UNITS

There are 25 study units in this course. They are:

Module 1 Understanding International Law

Unit 1 Meaning of International Law
Unit 2 Sources of International Law

As you can observe, the course begins with the basics and expands into a more elaborate, complex and detailed form. All you need to do is to follow the instructions as provided in each unit. In addition, some self-assessment exercises have been provided with which you can test your progress with the text and determine if your study is fulfilling the stated objectives. Tutor-Marked assignments have also been provided to aid your study. All these will assist you to be able to fully grasp knowledge of international law and organisation.

TEXTBOOKS AND REFERENCES

At the end of each unit, you will find a list of relevant reference materials which you may yourself wish to consult as the need arises, even though I have made efforts to provide you with the most important information you need to pass this course. However, I would encourage you, as a fourth-year student to cultivate the habit of consulting as many relevant materials as you are able to within the time available to you. In particular, be sure to consult whatever material you are advised to consult before attempting any exercise.

ASSESSMENT

Two types of assessment are involved in the course: Self-Assessment Exercises (SAEs), and the Tutor-Marked Assessment (TMA) questions. Your answers to the SAEs are not meant to be submitted, but they are also important since they give you an opportunity to assess your own understanding of the course content. Tutor–Marked Assignments (TMAs) on the other hand are to be carefully answered and kept in your assignment file for submission and marking. This will count for 30% of your total score in the course.

TUTOR–MARKED ASSIGNMENT

At the end of each unit, you will find tutor-marked assignments. There is an average of two tutor–marked assignments per unit. This will allow you to engage the course as robustly as possible. You need to submit at least four assignments of which the three with the highest marks will be recorded as part of your total course grade. This will account for 10 percent each, making a total of 30 percent. When you complete your assignments, send them including your form to your tutor for formal assessment on or before the deadline.

Self–assessment exercises are also provided in each unit. The exercises should help you to evaluate your understanding of the material so far. These are not to be submitted. You will find all answers to these within the units they are intended for.

FINAL EXAMINATION AND GRADING

There will be a final examination at the end of the course. The examination carries a total of 70 percent of the total course grade. The examination will reflect the contents of what you have learnt and the self–assessments and tutor-marked assignments. You therefore need to revise your course materials before-hand.

COURSE MARKING SCHEME

The following table sets out how the actual course marking is broken.

ASSESSMENT	**MARKS**
Four assignments (the best four of the assignments submitted for marking)	Four assignments, each mark out of 10%, but highest scoring three selected, then total of 30%
Final Examination	70% of overall course score
Total	**100% course score**

COURSE OVERVIEW PRESENTATION SCHEME

Units	Title of Work	Week Activity	Assignment (End-of-Unit)
Course Guide	**INTERNATIONAL LAW AND ORGANISATION**		
Module 1	**Understanding International Law**		
Unit 1	Meaning of International Law	Week 1	Assignment 1
Unit 2	Sources of International Law	Week 2	Assignment 1
Unit 3	The State as a Subject of International Law	Week 3	Assignment 1
Unit 4	Relationship between International Law and Municipal law	Week 4	Assignment 1
Unit 5	Topical Issues in International Law	Week 5	Assignment 1
Module 2	**Fundamentals of International Law**		
Unit 1	International Law of Treaties	Week 6	Assignment 1
Unit 2	International Law of the Seas	Week 7	Assignment 1
Unit 3	International Environmental Law	Week 8	Assignment 1
Unit 4	International Criminal Law	Week 9	Assignment 1
Unit 5	International Humanitarian Law	Week 10	Assignment 1

Module 3	**Evolution and Development of International Organisations**		
Unit 1	History of International Organisation	Week 11	Assignment 1
Unit 2	Approaches to the Study of International Organisations	Week 12	Assignment 1
Unit 3	Nature and Character of International Organisation	Week 13	Assignment 1
Unit 4	Brief Notes on Some International Organisations	Week 14	Assignment 1
Unit 5	International Organisations within the Context of International Law	Week 15	Assignment 1
Module 4	**International Co-operative Approaches to Economic and Social Development**		
Unit 1	Concept and Theories of International Development	Week 16	Assignment 1
Unit 2	Global Economic Development Initiatives in the 20th and 21st Centuries	Week 17	Assignment 1
Unit 3	Continental Initiatives for Tackling Development Issues and Challenges in Africa	Week 18	Assignment 1
Unit 4	Regional Economic Communities in Africa	Week 19	Assignment 1
Unit 5	Cultural Organisations for Fostering World Peace and Social Development	Week 20	Assignment 1
Module 5	**Contemporary Issues in International Law and Organisations**		
Unit 1	International Law in the age of Globalisation	Week 21	Assignment 1
Unit 2	Enforcement of International Law	Week 22	Assignment 1
Unit 3	Essential Principles of International Law	Week 23	Assignment 1
Unit 4	The Catalyst in International Law	Week 24	Assignment 1
Unit 5	Major Organisations in the Sustainability of Global World	Week 25	Assignment 1

WHAT YOU WILL NEED FOR THE COURSE

This course builds on what you have learnt in the 100 Levels. It will be helpful if you try to review what you studied earlier. Second, you may need to purchase one or two texts recommended as important for your mastery of the course content. You need quality time in a study friendly environment every week. If you are computer–literate (which ideally you should be), you should be prepared to visit recommended websites. You should also cultivate the habit of visiting reputable physical libraries accessible to you.

TUTORS AND TUTORIALS

There are 15 hours of tutorials provided in support of the course. You will be notified of the dates and location of these tutorials, together with the name and phone number of your tutor as soon as you are allocated a tutorial group. Your tutor will mark and comment on your assignments, and keep a close watch on your progress. Be sure to send in your Tutor-Marked assignments promptly, and feel free to contact your tutor in case of any difficulty with your self–assessment exercise, tutor–marked assignment or the grading of an assignment. In any case, you are advised to attend the tutorials regularly and punctually. Always take a list of such prepared questions to the tutorials and participate actively in the discussions.

TUTOR–MARKED ASSIGNMENTS (TMAs)

Usually, there are four online tutor–marked assignments in this course. Each assignment will be marked over ten percent. The best three (that is the highest three of the 10 marks) will be counted. This implies that the total mark for the best three assignments will constitute 30% of your total course work. You will be able to complete your online assignments successfully from the information and materials contained in your references, reading and study units.

FINAL EXAMINATION AND GRADING

The final examination for **POL 452: International Law and Organisation** will be of three hours' duration and have a value of 70% of the total course grade. The examination will consist of multiple choices and fill in–the–gaps questions which will reflect the practice exercises and tutor–marked assignments you have previously encountered. All areas of the course will be assessed. It is important that you use adequate time to revise the entire course. You may find it useful to review your tutor-marked assignments before the examination. The final examination covers information from all aspects

of the course.

HOW TO GET THE MOST FROM THIS COURSE

1. There are 25 units in this course. You are to spend one week in each unit. In distance learning, the study units replace the university lecture. This is one of the great advantages of distance learning; you can read and work through specially designed study materials at your own pace, and at a time and place that suites you best. Think of it as reading the lecture instead of listening to the lecturer. In the same way a lecturer might give you some reading to do. The study units tell you when to read and which are your text materials or recommended books. You are provided with exercises to do at appropriate points, just as a lecturer might give you in a class exercise.
2. Each of the study units follows a common format. The first item is an introduction to the subject–matter of the unit, and how a particular unit is integrated with other units and the course as a whole. Next to this is a set of learning objectives. These objectives let you know what you should be able to do, by the time you have completed the unit. These learning objectives are meant to guide your study. The moment a unit is finished, you must go back and check whether you have achieved the objectives. If this is made a habit, then you will significantly improve your chance of passing the course.
3. The main body of the unit guides you through the required reading from other sources. This will usually be either from your reference or from a reading section.
4. The following is a practical strategy for working through the course. If you run into any trouble, then put a call through your tutor or visit the study centre nearest to you. Remember that your tutor's job is to help you. When you need assistance, do not hesitate to call and ask your tutor to provide you necessary assistance.
5. Read this course guide thoroughly. It is your first assignment.
6. Organise a study schedule - Design a 'Course Overview' to guide you through the course. Note the time you are expected to spend on each unit and how the assignments relate to the units.
7. Important information; e.g. details of your tutorials and the date of the first day of the semester is available at the study centre.
8. You need to gather all the information into one place, such as your diary or a wall calendar. Whatever method you choose to use, you should decide on and write in your own dates and schedule of work for each unit.
9. Once you have created your own study schedule, do everything to stay faithful to it.

10. The major reason that students fail is that they get behind in their coursework. If you get into difficulties with your schedule, please let your tutor or course coordinator know before it is too late for help.
11. Turn to Unit 1, and read the introduction and the objectives for the unit.
12. Assemble the study materials. You will need your references for the unit you are studying at any point in time.
13. As you work through the unit, you will know what sources to consult for further information.
14. Visit your study centre whenever you need up-to-date information.
15. Well before the relevant online TMA due dates, visit your study centre for relevant information and updates. Keep in mind that you will learn a lot by doing the assignment carefully. They have been designed to help you meet the objectives of the course and, therefore, will help you pass the examination.
16. Review the objectives for each study unit to confirm that you have achieved them. If you feel unsure about any of the objectives, review the study materials or consult your tutor. When you are confident that you have achieved a unit's objectives, you can start on the next unit. Proceed unit by unit through the course and try to space your study so that you can keep yourself on schedule.
17. After completing the last unit, review the course and prepare yourself for the final examination. Check that you have achieved the unit objectives (listed at the beginning of each unit) and the course objectives (listed in the course guide).

CONCLUSION

This is a theory course but you will get the best out of it if you cultivate the habit of relating it to political issues in domestic and international arena.

SUMMARY

"International Law and Organisation" introduces you to general understanding of the current dynamics surrounding treatises interactions among nations in the international system. All the basic course materials that you need to successfully complete the course are provided. At the end, you will be able to:

- explain vividly the concept of International Law;
- discuss the institutional frameworks regulating international organisations;
- have an understanding of the implications of international laws on Africa; and
- familiarise with the contemporary issues in international law and

organisation transaction co–operative approaches to economic and social development.

LIST OF ACRONYMS

ECOWAS - Economic Community of West African States
ECOSOC - Economic and Social Council
EU - European Union
GATT - General Agreement On Tariffs and Trade
GATS - General Agreements On Trade in Services
GDP - Gross Domestic Product
ILO - International Labour Organisation
IAEA - International Atomic Energy Agency
ICCPR - International Convention On Civil and Political Rights
ICJ - International Court of Justice
ITU - International Telecommunication Union
ICESCR - International Covenant On Economic, Social and Cultural Rights
NGOS - Non-Governmental Organisations
TRIPS - Trade Related Aspects of Intellectual Property
UK - United Kingdom of Great Britain and Ireland
UN - United Nations
UNDP - United Nations Development Program
UNCBD - United Nations Convention On Biological Diversity
UNCTAD - United Nations' Conference On Trade and Development
UNDP - United Nations Development Programme
UNIDO - United Nations Industrial Development Organisation
UNCLOS - United Nations Convention On the Law of the Sea
UNITED - United Nations Environment Programme
VCLT - Vienna Convention On Law of Treaties
WIFO - World International Property Organisation
WTO - World Trade Organisation

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MAIN COURSE

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MODULE 1 UNDERSTANDING INTERNATIONAL LAW

INTRODUCTION

This module will examine the overall understanding of international law. In order to set the tone for this discourse, it is apposite that we understand the meaning of international law. The appropriate method for understanding the meaning can be inferred from the definition. The definition of international law is enriched by the contributions of scholars from various academic disciplines, especially law, international relations (and its cognate disciplines; political science and history). The various perspectives from which scholars define or explain the subject–matter of international law has however not tainted its universal meaning and acceptance as the body of rules that guide the conduct of relations among political entities, corporations and humans across boundaries. Although international law is traditionally concerned with the conduct of states and international organisations, but as actions of other non–state actors such as individuals, transnational corporations and non–governmental organisations are becoming critical to international relations, the activities of these non–state actors are also becoming relevant to the discourse on international law.

UNIT 1 MEANING OF INTERNATIONAL LAW

CONTENTS

1.0 INTRODUCTION

The international system as a composition of various political entities and institutions aggregate the complex web of interactions that take place among humans, who are markedly differentiated by colour, race, beliefs, religions, norms, mores and values, and so forth. Inherent in the complex web is the existence of the three Cs; conflict, communication and collaboration/cooperation. In conducting any of these forms of interactions, there must be agreed and intelligible forms of rules of engagements. Hence, the necessity for humanity to devise mechanisms for conducting interactions at every aeon of existence is germane. It is therefore argued that international law had always been in existence, however, the formal rules and mechanisms have gone through various stages of development. This unit is therefore intended to introduce the students to the nature and character of international law, first, by providing some of the definitions, and secondly, by exposing the students to the developmental pattern of the subject-matter.

2.0 OBJECTIVES

By the end of this unit, you will be able to:

- present relevant definitions of international law
- explain the various developmental stages that international law has passed through
- highlight the core issues in the developmental process of international law.

3.0 MAIN CONTENT

3.1 Definitions

According to Beckman & Butte (2012):
International law consists of the rules and principles of general application dealing with the conduct of states and international organisations in their international relations with one-another and with private individuals, minority groups and transnational companies.

Brunnee and Stephen (2012) opine that international law can be defined as a body of principles, customs, and rules recognised as effectively binding obligations by sovereign states in their mutual relations. They argue further that: “what distinguishes law from other types of social ordering is not form, but adherence to specific rules of legality: generality, promulgation, non–retroactivity, clarity, non–contradiction, not asking the impossible, constancy, and congruence between rules and official

action." International law's distinguishing feature–that which sets it apart from an institution, practice, or political agreement–is its acceptance in principle as binding. Public international law comprises a set of binding rules among states. Increasingly we can find instances in which such rules govern individuals (international criminal law and some aspects of the laws of war, for example), but only states (or in some cases, organisations of states) can enter into international legal agreements, or treatises. This binding state–to–state quality distinguishes international law from the broader concept of international institutions, which can include non–binding practices and which, many would agree, can also include rules and principle devised by non–state actors.

McKeever (2006) refers to the subject-matter as public international law in his definition, which says:

Public international law is the law of the political system of nations–states. It is a distinct and self–contained system of law, independent of the national system with which it interacts, and dealing with relations, which they do not effectively govern.

From the foregoing definitions, we can infer that international law is deeply linked to the conduct and practice of law across boundaries. It is therefore essential to trace the origin and development of the subject matter. This is even more so crucial because of the changes that have occurred and continue to occur in the systems of interactions in the international system. For instance, the definition of statehood in the twenty–first century is different from the definition of political entities as states in the pre–Westphalia era. Thus, these intricate changes continue to impact on the conduct and practice of international law and hence the need for the understanding of the origin and development.

3.2 Origin and Development of International Law

It has been argued that international law is as old as human existence. Its articulation and usage are tinkered in order to be relevant to existing conditions of the human–race, primarily represented by the definition of statehood and all forms of interactions, especially involving those across boundaries. The guiding principles and codes of conducts are principles held as important at various phases of human existence. For instance, most of the laws in existence before the Treaty of Westphalia in 1648 would have become moribund and of no consequential effects to the conducts of interstate relations in the twenty–first century, basically because the concept of statehood in both aeons are significantly different. Similarly, the laws guiding the exploration of space in the nineteenth century are significantly different from what exists at present. The same could be said in the analysis of territorial waters, which guides the

Laws of the Seas today. Another critical example is the definition of human rights, and the relationships between citizens and the state. Furthermore, the conduct of war and the definition of crimes against humanity are widely different from what they meant in the early days (if they existed then).

In line with the foregoing analysis, Neff (2012) breaks the origin of international law into four phases. These phases reflect periods of significant transformations in the trajectory of the human-race.

3.3 Ancient World

In the words of Neff (2012), the existence of international law in the ancient times is better done by presenting Herodotus' description of 'silent trading' between the Carthaginians and an unnamed North African tribe in about the sixth century BC. According to Neff:

When the Carthaginians arrived in the tribe's area by ship, they would unload a pile of goods from their vessels, leave them on the beach, then return to their boats, and send a smoke signal. The natives would then come and inspect the goods on their own, leave a pile of gold, and retire. Then the Carthaginians would return; and, if satisfied that the gold represented a fair price, they would take it and depart. If not satisfied, they would again retire to their ships; and the natives would return to leave more gold. The process would continue until both sides were content, at which point the Carthaginians would sail away with their gold, without a word exchanged between the two groups.

Based on the above analysis, it could be rightly argued that international law commenced at the earliest recorded history of man in which international law "meant merely the ensemble of methods or devices which give an element of predictability to international relations". However, it is argued that this form of interaction is rather simplistic to explain international law.

SELF–ASSESSMENT EXERCISE

Briefly describe the existence of international law in the ancient period.

3.4 The Middle Ages

This period is referred to as "an intriguing picture of dizzying variety and complexity, combined–not always very coherently–with the most sweeping universality". The period was partly symbolic with the universal institutionalisation of Thomas Aquinas' natural law ideology and the diffusion of governmental powers and jurisdictions. Accordingly,

"it encompassed and regulated the natural and social life of the universe". The period further stresses a distinction between 'natural justice' (*jus natural*) and 'national justice' (*jus gentium)* without any strong lines of differences between the two systems of law. Neff (2012) elaborates:

The *jus gentium* was much the lesser of the two, being seen largely as an application of the broader natural law to specifically human affairs. Sometimes it was regarded as comprising universal customs of purely human creation-and therefore as a sort of supplement to natural law properly speaking. These *jus gentium* rules were sometimes referred to as 'secondary' natural–law rules. It must be stressed that this original *jus gentium* did not consist entirely, or even primarily, of what would now be called rules of international law. Instead, it was a collection of laws common to all nations, affecting individuals in all walks of life, from the highest to the lowest, and dealing with all aspects of human social affairs-contract, property, crime, and the like. It was more in the nature of an ethical system of universal or trans–cultural scope, setting out general norms of conduct, as opposed to a legal code with a list of prohibitions and punishments. One aspect of this grand intellectual scheme should be particularly stressed: the fact that there was no strong tendency to think that anybody of law existed that was applicable uniquely to international relations as such. States, like private persons, were permitted lawfully to wage war for such purposes as the punishment of wickedness or, generally, for the enforcement of the law–but not for vainglory or conquest or oppression. This in fact was the conceptual kernel of natural law's most outstanding contribution to international law: the doctrine of the just war.

The argument of the natural law proponents is that the human race forms a single moral and ethical community, thus the same system of rules should apply everywhere. The contention however is that the community has within it, different set of political entities with various sets of peculiarities. The thinking pitched the Universalists against the pluralists. This became very pronounced in the debates over the legal status of the various 'independent' city-states of northern Italy. The contention centred on the legal status of the independent city-states within the wider Holy Roman Empire; the debate was the first attempt to determine the elements of independence in relation to the legal status of states.

In relation to the issue of conflicts, it is contended that natural law's failings come in its inability to protect the weak against the strong. According to a source:

It is one of history's great ironies that the natural–law tradition, which had once been so grand an expression of idealism and world brotherhood, should come to such an ignominiously blood–

spattered pass. A philosophy that had once insisted so strongly on the protection of the weak against the strong was now used as a weapon of the strong against the weak. It is, of course, unfair to condemn a whole system of justice on the basis of abuses. But the abuses were many, and the power relations too naked and too ugly for the tastes of many from the developing world. Along with imperialism, forcible self–help actions left a long–lasting stain on relations between the developed and the developing worlds.

In the final analysis, the pluralists tend to have gained the upper hand considering that the existing system of law accords respect to municipal laws, while international law thrives on the consent of States, and aided by moral persuasion. As far as the development of international law is concerned, much of the practice in the Middle Ages accorded with the practice of ancient times. Neff (2012) comments on diplomatic processes of the time deserve elaboration. He writes:

Beginning in about the eleventh century, European (chiefly Italian) States began to conclude bilateral treaties that spelled out various reciprocal guarantees of fair treatment. These agreements, sometimes concluded with Muslim States, granted a range of privileges to the foreign merchants based in the contracting States, such as the right to use their own law and courts when dealing with one another.

There are interesting accounts of the implementation of the tenets of international law in this era as a result of the divergent views, distinct orientations and beliefs and complex nature of the world system. Neff explains one of the complex subjects of international law at the time. He states that:

Accounts of medieval warfare, however, incline observers to harbour grave doubts as to whether even these practical rules exerted much real influence. With the European explorations of Africa and, particularly, the New World from the fourteenth century onward, questions of relations with non-European societies assumed an urgent importance–while, at the same time, posing an immense practical *test for the universality of natural law.*

In effect, the content, context and practice of international law in the medieval period was challenging to both the practitioners and the subjects of the law. This is because of the pluralistic nature of beliefs and practices that could not be universalised by the ‘natural justice’ adherents. All aspects of international law (diplomacy, war, trading) presented cases for and against this circumstance in practice.

3.5 Classical Period of Dualism

This period was all about the recognition of the dualistic purposes of the law of nature and the laws of nations. Neff captures it thus:

What was new in the seventeenth century was a willingness to give a degree of formal recognition to State practice as a true source of law, rather than regarding it as merely illustrative of natural–law principles.

This duality has existed up until the present day. This novel line of thinking was initiated by Hugo Grotius and Thomas Hobbes. In his major work, "On the Law of War and Peace", Hobbes remarks that international law is the transformation of the "*jus gentium"* (customary law held in common by all nations) to the law of nations. Remarkably, this is distinct from the law of nature, in that neither was it a sub–category of the law of nature nor was it a means of its application. In specific terms, it was not regarded as a broad category of law governing human social or political affairs, but rather, it applied specifically and singularly to rulers of states. This brought about the introduction, for the first time in history, "a clear conception of a systematic body of law applicable specifically to the relationship between nations" (Neff, 2012).

Neff (2012) attempts to clear the air on the debate in the relationship between traditional natural law and the law of nations developed by Grotius. In his words:

It should be appreciated that Grotius's law of nations or 'voluntary law' as it was sometimes known, was not designed to supplant or undermine traditional natural law. Far from it! The function of this law of nations was an interstitial one, filling gaps where the natural–law principles were too general, or devising workable rules as pragmatic substitutes where the application of the strict natural law was, for some reason, unfeasible. The law of nature and the law of nations, in short, were seen as partners rather than as rivals.

In the search for stability of the system under the circumstance, states must endeavour to enter into binding agreements whenever possible. The agreements were either written or unwritten. While treaties formed the basis of the written agreements, the unwritten agreements were customary law easily recognised and acceptable to all states. The essential aspect of this era is that Grotius and Hobbes provoked debates and won adherents that have continually formed the basis of working and reworking the tenets of international law.

19th Century

The period deepened the philosophical base of international law. Positivism became the dominant tradition, although this is not to ignore the contributions of the historical school of law. Also, of importance is that natural law, despite the changing trends in the conduct of international relations was equally still relevant, even if not in the mould of the other two ideologies. It is claimed that the underlying thesis of the positivist school of thought is to extract international law from its natural law grounding, and move the subject into the realm of science, empiricism or objectivity and free it from the manipulations and distractions of speculative, value–laden or religious modes of thought. The leading light in the mission was the French social philosopher Auguste Comte. In Comte's analysis, the human race had passed through three historical phases, viz; the theological, the metaphysical and the trending (as at then), the positive. Religion and religious inclinations had been dominant in the theological aeon, while the metaphysical age witnessed the birth of natural law as played out in the prevalence of legalistic and jurisprudential inclinations. The third age was meant to be the age of positivism, which main role was the liberation of the mind from the superstitious dogmas of the past, through concrete and objective scientific analysis without giving room to subjectivism, norms and value.

According to Comte, positivism simply means a complex web of "technocratic utopia", whereby the state is not ruled by the regulars of the time (clerics, politicians, lawyers), but rather by technocrats; engineers and industrialists. Furthermore, the world was expected to be borderless, that is, rendering the nation-state irrelevant with the creation of a world government. Like every socio–political and economic issues of the time, international law was equally affected by the positivist ideology.

In applying the positive philosophy to international law, the content of the debate was the "doctrinaire insistence that positive law is the only true law, that is, the wholesale and principled rejection of natural law as a valid or binding guide to conduct". The period commenced the era of the radical departure from the belief of a close–knit relationship between natural law and the law of nations. At this period, it was clear that "the partnership between the law of nations and the law of nature, in short, was now regarded as irredeemably dissolved". Hence, positivists argue that "international law was, fundamentally, an outgrowth or feature of the will of the States of the world. Rules of law were created by the States themselves, by consent, whether express (in written treaties) or tacit (in the form of custom). Positivist philosophy contended that international law was the sum total, or aggregation, of agreements which States happen to have arrived at, any given time. Instructively, positivists affirmed that international law must now be seen as a law between States and not as a law above States.

From another angle, the positivist perspective viewed international law from an "instrumentalist" point of view, a situation in contrast to what you used to exist when the law had its own objective to accomplish, and a universal force upon which general standards of rules were established. But the positivists were of the opinion that the law served technocratic purposes, and must be used to achieve certain goals and objectives influenced by political considerations. Being an instrument, law became the tool to be used for achieving objectives.

Beyond the scholarship and ideological basis of international in the 19th century, Neff (2012) submits thus: "if 'international law' is defined as the integration of the world at large into something like a single community under a rule of law, then the nineteenth century would be the earliest date". Coming on the heels of the defeat of France in 1815, the world (which was Euro-centric in the period) came together and formed the precursor to the League of Nations, which eventually metamorphosed into the United Nations, called, the Concert of Europe. The triumphant European powers; Britain, Prussia, Russia and Austria designed a peace settlement on the general principles that would formed the basis of relationship among nations. These European powers formed the "Concert of Europe", a form of association that partly focused on the balance of power in order to maintain equilibrium in power relations. The main idea was to establish a deterrence mechanism such that peace can be assured and maintained. Accordingly, "the goal was to create a continent–wide set of political arrangements that would (it was hoped) keep the scourge of revolution from breaking out again". But at the forefront of maintaining the peace were the major powers that would affect military intervention in case of perceived disequilibrium in power calculus.

In the final analysis though, the "Concert of Europe" was criticised for being hegemonic, primarily because of the absence of the principle of equality of states in its dealings, and the group did not accommodate non-European states within its rank. With the challenges of the twentieth century, it became apparent that the world required more than the "Concert of Europe" to establish a system and pattern of relationship guided by consent in order to achieve peace and harmony.

SELF–ASSESSMENT EXERCISE

Examine new ideas generated about international law in the 19th century

The Twentieth Century

The twentieth century emerged with its own challenges, which showed the apparent inadequacies of the "Concert of Europe". With the destruction of lives and properties that followed the trail of the First World War, it became paramount that a broad-based organisation that would

exist permanently was needed to nip the incidence of war and carnage in the bud. Soon enough, the American President Woodrow Wilson motivated other world leaders into the Versailles Treaty of 1919 where a new public order that would allow for open and democratic deliberations would be formed. The formation of the League of Nations consequently followed. While the League of Nations could not exist for long enough partly as a result of power-play among the founding states, it failed woefully because of its inability to stop another world war; the Second World War. However, one of the fundamental achievements was the creation of a World Court known as the Permanent Court of International Justice. For the first time, the world established a standing body to decide cases that are international in nature and context. The world, through the League of Nations therefore succeeded in establishing "a substantial body of international judicial practice".

4.0 CONCLUSION

In conclusion, the international system continually improves on the system of law that would guide the conduct of relationship. However, the enterprise is fraught with challenges because of the forces that States have to contend with in establishing new processes or reviewing existing processes. With other non–state actors also included as subjects of international law, and the fact that States would also have to contend with some critical issues such as jurisdiction, while being conscious of the existence of sovereignty make the operationalisation of international law a daunting task.

5.0 SUMMARY

The unit is the introductory part of this module; hence, we have attempted to explain some of the important issues related to international law, which the students would find relevant as they explore the other areas of the course. In this unit therefore, you would learn about the origin of international law, and the various phases it passed through before now. In the process, there were scholarly debates and explanations on the relationship between national law and natural law, which also extends to the plurality or universality of international law. An interesting aspect of the history is the era of positive thinking, which from all intent and purposes appear to be the basis upon which the system of international law has been conducted since the twentieth–century.

6.0 TUTOR–MARKED ASSIGNMENT

List and explain each of the developmental stages of 'International Law'.

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UNIT 2 SOURCES OF INTERNATIONAL LAW

CONTENTS

1.0 INTRODUCTION

The international system has overtime been driven by different sources at one time or the other. Sources of international law such as; treaties, convention, custom, judicial decision, Juristic works and the determinations of the Organs of international institutions has dominated international regulating arenas. Even to this present age they are in varying degrees still relevant or practised in the international system. This unit therefore will attempt to provide the reader with a cursory bird's eye view of the aforementioned sources.

2.0 OBJECTIVES

By the end of this unit, you will be able to:

- explain the various sources of international law
- differentiate between international treaties and customs
- differentiate between international judicial decisions and juristic works.

3.0 MAIN CONTENT

3.1 International Treaties and Conventions

This is the main source of international law; however, the effectiveness of a treaty becoming the basis for the formation of rules of international law is dependent on the nature of the treaty. The distinction between law-making treaties and treaty contracts cannot be undermined. While law–

making treaties provide the basis for the general application of laid down rules and procedures, treaty contracts deal with particular matters concerning two or fewer states in particular. Thus, treaty contracts merely lay down special obligations concerning the parties involved.

Despite the universal or general applicable nature of law-making treaties, they are often framework conventions which impose duties and responsibilities for the enactment of legislation or offering opportunities within which states are to apply the principles spelt out by the convention. In other words, law–making treaties are more or less general standard-setting instruments which are applied by states on provisional basis.

The resounding prominence of treaties as the primary source of international law can be attributed to the transformation of the international system after the Second World War. In this respect, multilateral treaties have been the most relevant source of international law because of the following reasons:

a. The participation of a large number of States, relative to bilateral treaties, ensure the effectiveness for the purpose of codifying international law.
b. The subject–matter of multilateral treaties are usually comprehensively addressed, thus relatively guiding against ambiguities.
c. The nature of contemporary international system thrown–up by globalization has produced the avenue for continuous intermingling among States, hence, the codification of rules emerging from such interactions.
d. In comparison, it is relatively quicker and faster to amend existing international rules or create new ones through treaties.

Treaties' dominance as a source of international law is connected to the reduced deference to customs as a source of international law. This development is similar to the replacement of customary or common law by codified law in municipal legal settings, however, customary international law continues to play a significant role in the international law system.

SELF–ASSESSMENT EXERCISE

Explain the two types of law–making treaties.

3.2 Customs

Customs used to be the most important source of international law, until the elevation of treaties and conventions consequent upon the radical

transformation of the international system. Customs are rules that evolved through long historical processes and eventually culminating in their acceptance by the international community as basis for legal conducts and management of relationships. It is however essential to mark out the differences between 'custom' and 'usage'. According to Starke (1977), "there is a clear technical distinction between the two". In his words: "sage represents the twilight stage of custom. Custom begins where usage ends. Usage is an international habit of action that has not yet received full legal attestation. Usages may be conflicting; customs must be unified and self-consistent."

A critical point to note in the acceptance of customs as a source of international law is the role played by both national and international courts. Starke provides a detailed explanation as to the import of judicial application in the recognition of a customs as a source of international law. He avers:

Often it is claimed by one of the parties before the Court that a certain rule of customary international law exists. The Court must then investigate whether or not the rule invoked before it is a validly established rule of international custom, and in the course of this inquiry it examines all possible materials, such as treaties, the practice of states, diplomatic correspondence, decisions of state courts, and juristic writings. In certain cases, the Court's function may be more than purely declaratory; while not actually creating new customary rules, the Court may feel constrained to carry to a final stage the process of evolution of usages so generally recognised to suggest that by an inevitable course of development they will crystallise into custom.

Contemporary discourse on the effect of customs as a source of international law has focused on the point where a distinction between the actions of states and what they claim to be a representation of the law. This seeming incoherence tends towards a rejection of states' practice and reducing to a mere evidence of an opinion of law (*opinio juris*). With the existing nature and character of the international system, it is argued that it is the super–powers and the developed world that parade the capacity through their actions to the development of international law. However, the most viable option for contributing to the development of the international law system may be their participation and contribution at international gatherings, especially at the level of the UN General Assembly. Often the International Court of Justice will consider General Assembly resolutions as indicative of customary international law. This is equally fraught with anomalies because the less–powerful states tend to tow the line of their benefactors– the powerful states, when voting or expressing their positions on issues.

Finally, it is important to be aware that the continuous transformation of the international system, and the subsequent developments make it imperative that customs in inter–state relations are not limited to long–term practices, but, in appropriate circumstances, there is also the issue of "instant custom". Be that as it may, the learning point is that custom as an acceptable source of international law is not limited by time or period of practice.

3.3 International Judicial Decisions

This is a fundamental source of international law, one that is directly connected to the workings of the International Court of Justice. The ICJ is the successor of the former Permanent Court of International Justice which delivered land–mark judgments and provided advisory opinions on matters of international importance during the period 1921–1940. The ICJ continues to play this part today.

It should be noted that in making the rules of international law, international judicial decisions might be said to serve secondary functions. The conditions that creates judicial decisions, such as; the decisions of international and municipal courts, the publications of academics, etc. are often not regarded as sources of law per se, but as mechanisms for recognising the law emanating from other sources. In practice, it is contended that the ICJ for instance does not make reference to domestic decisions, but would rather draw inferences from its hitherto case–law.

Despite these achievements, there have been contentions about the potency of arbitral decisions. There are claims that arbitral and judicial decisions are distinct because arbitrators tend to be more of diplomatic agents or negotiators seeking agreement, and not judges focused on facts and law. Thus, the subjective nature of arbitration weakens the capacity of its decisions to be employed in law. However, Starke lays it out clearly in the following words:

The main distinction between arbitration and judicial decision lies not in the principles which they respectively apply, but in the manner of selection of the judges, their security of tenure, the independence of the parties, and the fact that the judicial tribunal is governed by a fixed body of rules of procedure instead of by ad hoc rules for each case.

SELF–ASSESSMENT EXERCISE

Explain the differences between judicial decisions and arbitration.

3.4 Juristic Works

The importance of the role of jurists in the development of international law cannot be over–emphasised. Beside of interpreting the laws, they also use their broad knowledge in initiating the processes of the development of new laws and codes of conduct. Despite the immense contributions of jurists, their works are not considered as an independent source of law. Juristic works are appreciated for their evidentiary value. To reemphasise the non–independent nature of juristic works, the report of a body of experts concludes with the following:

... Juristic opinion is only important as a means of throwing light on the rules of international law and rendering their formation easier. It is of no authority in itself, although it may become so if subsequently embodied in customary rules of international law; this is due to the action of States or other agencies for the formation of custom, and not to any force which juristic opinion possesses (Funk, 2010).

The *evidentiary* function of juristic opinion is consolidated as events of unfold, particularly if generally relied upon, or if no principles contrary to such opinion become established. For this purpose, therefore, juristic works may acquire the nature of a prescriptive authority (Funk, 2010). Caution must however be exercised in accepting the opinions of jurists, even when it has evidentiary value as a recognised customary law. For emphasis though, in the absence of no established customary law or treaty rules in regard to a particular case, "recourse may be had to juristic opinion as an independent 'source', in addition to the views expressed in decided cases or in diplomatic exchanges".

3.5 Decisions or Determinations of the Organs of International Institutions

In recognition of the important roles played by non-state actors in the processes of establishing the rules and codes of conducts in international relations, the decisions taken by these institutions are accorded requisite respect in the processes of the systems of international law. The current debate is focused on the lack of clarity in the ICJ provision that refers to the "General Principles of Law" as a source. However, it is assumed to relate to municipal law, which may act as the method of filling any gap that may not be covered by treaties or customs. Despite the overriding influences of treaties and customs as a source of the rules of international law, the principles of law as practised by recognised states have also been very relevant especially when vacuum exists in the process of application. According to Starke, decisions taken at these institutions or gatherings may enrich the processes of the formation of international law.

4.0 CONCLUSION

The unit focuses on the sources through which the rules of international law are established. With emphasis on the current trend whereby treaties entered into by States and States' practices, which become customs are given higher priority than other sources; this shows the strength of State as the primary subject of international law. The next unit would further accentuate this position.

5.0 SUMMARY

In summary, the unit attempts to explain the various sources of international law. In this effort, the role of the State is quite pronounced. Aside of the four sources outlined in the Convention of the United Nations, we are also able to discuss "Decisions or Declarations of the Organs of International Institutions or of International Conferences". This also re-emphasises the important role played by States in the system and practices of international law, and reinforces the argument that States' submissions to judgments arrived through international law are voluntary.

6.0 TUTOR-MARKED ASSIGNMENT

Outline and explain the sources of international law.

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UNIT 3 THE STATE AS A SUBJECT OF INTERNATIONAL LAW

CONTENTS

1.0 INTRODUCTION

The concept of State remains the principal subject of international law, if for no other reason than the fact that all the arguments for and against State's importance revolves round the relationship or connection of other possible subjects with or to the State. Based on this premise, we now turn our attention to the understanding of the State, and its duties, responsibilities, obligations and rights as a subject of international law.

2.0 OBJECTIVES

By the end of this unit, you will be able to:

- highlight the primacy of State as a subject of international law
- distinguish between De Jure and De Facto Recognition.

3.0 MAIN CONTENT

3.1 What is a State?

The concept of a State is subject to various interpretations bothering on the existence or non–existence of primordial affiliations. In order to put this argument to rest, and thereby understand the position of international law concerning issues related to the State. The simplest definition of a State declared that: "a State is an agency or machinery through which the Will of the State is formulated, expressed and realised". Having stated that the simplest definition of a state, it is imperative to say that international law adopts the essential characteristics that make-up a State as provided in Article 1 of the Montevideo Convention of 1933 where the State is described thus:

The State as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) a Government; and (d) a capacity to enter into relations with other States. This description is apt in that it sets the limits as to what political entity constitutes a State. Specifically, the ability to enter into relations with other States is considered most critical in the processes of international law. According to Starke (1977):

A State must have recognised capacity to maintain external relations with other States. This distinguishes States proper from lesser units such as Members of a Federation, or Protectorates, which do not manage their own affairs, and are not recognised by other States as full-fledged members of the international community.

3.2 Understanding the Basic Rights and Duties of States

There have always been two positions on the basic rights and duties of States. The first being that of naturalist scholars who contend that States are creatures of natural law, and by this are guided by the principles and conducts of the law of nature (Hart, 1961). On the other hand, modern–day scholars have alluded to more pragmatic basis for understanding the rights and duties of States. According to the latter group, there is an establishment of universal standards of law and justice in international relations, which aid and sets the limits for the rights and duties of States. The most basic of rights of States is the independence and equality of States, of territorial jurisdiction, and of self-defense or self-preservation. The duties on the other hand include; not resorting to war in case of disputes, of carrying out in good faith treaty obligations, and of not intervening in the affairs of other States. The independence of States which bestows equality is derived from the concept of sovereignty (Geyer, 2001). Each independent State is presumed to possess sovereignty over its subjects and its affairs within its territorial limits.

Despite the sovereignty accorded to States in the exploitation of their wealth, the international system is equally concerned about the possible implications of uncensored exploitation on the human environment in general. The matter was however put to rest at the Stockholm Conference on the Human Environment where it was proclaimed that:

States have a sovereign right to exploit their own resources pursuant to their own environmental policies, while remaining responsible for ensuring that activities within their jurisdiction or control do not cause damage to the environment of other States.

SELF-ASSESSMENT EXERCISE

Explain the power of State sovereignty.

3.3 *De Jure* and *De Facto* Recognition

The conduct of States' interactions, guided by the principles of international law falls within the concepts of *de jure* and *de facto* recognition. De jure recognition refers to recognition conferred because the State or Government so recognised formally fulfils the requirements acceptable under international law, and which forge participation within the international community. De facto recognition on the other hand refers to provisional, conditional or temporary grant of recognition to a State or Government subject to either withdrawal of such recognition or transitioning of such recognition to a de jure status if the State or Government fulfils the requirements laid down by international law. In fact, in reality though, de facto recognition is hardly ever revoked. More often than not, it is a prelude to the more formal and more permanent form of recognition- de jure recognition. Starke (1977) understanding of *de facto* recognition is quite enlightening. Like Starke, Lazaroff (2012) argues: By recognising a State or Government de facto, the recognising State is enabled to acknowledge the external facts of political power, and protect its interests, its trade, and citizens, without committing itself to condoning illegalities or irregularities in the emergence of the de facto State or Government. To this extent, recognition de facto is probably a necessary legal expedient.

4.0 CONCLUSION

In conclusion, the unit establishes the importance of the State as the fundamental subject of international law, although, acknowledging the fact of the existence of other subjects. In essence, the emphasis is that all other subjects exists and operates within the territorial confines of States, either within a particular State or across international boundaries.

5.0 SUMMARY

The unit presents the full nature and character of the State as a subject of international law. It examined the meaning of State. It also goes further to explicate on the rights and duties of the State, for it is in these, that we can capture the nature and character of the State as a subject of international law. Furthermore, the issue of sovereignty as a fundamental element of statehood is treated, in order to emphasise the equality of states in the international system. Related to this, is the issue of recognition which the nature of relationship that can exists between a State and other actors in the system. Finally, the unit explains the two variants of

recognition that can be accorded to a State or government, that is, *de jure* or *de facto*.

6.0 TUTOR-MARKED ASSIGNMENT

Critically discuss your understanding of state sovereignty.

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UNIT 4 RELATIONSHIP BETWEEN INTERNATIONAL LAW AND MUNICIPAL LAW

CONTENTS

1.0 INTRODUCTION

The relationship between the two systems of law has always been a topic of debate among scholars and practitioners as well as the like. The direction of this debate is often about which of the two systems is superior or which predates the other. The debate has led to the development of theoretical underpinnings for the explanation of the relationship between two realities. This unit would explain the various theories and situate or find expressions for them in the practice of law.

2.0 OBJECTIVES

By the end of this unit, you will be able to:

- analyse the relationship between the two systems of law
- present the theoretical body of knowledge on the relationship between the two systems of law
- expatiate on the possibilities of the existence of primacy in the two systems of law.

3.0 MAIN CONTENT

3.1 Theories of the Relationship between foreign law and domestic law

The clarification of the relationship between international law and municipal law is essential amidst the cross-cutting of boundaries in the settlement of disputes or interpretation of the law as it concerns States or State(s) and other actors in the international system. The clarification is even more required as it concerns the law of treaties as a result of the

important role played by the law of treaties as the key branch of international law, and by extension, the rate at which the law of treaties encroaches on the domain of State law (Barka, 2000).

The relationship between both systems of law, though practically confronts the world daily, the explanations for the relationship would be more accurate from the prisms of theories as advanced by scholars in the field. Within the theories, we would be able to understand the limitations between international law and municipal law, and furthermore, the theories would also explain the extent to which national courts give effect to rules of international law, in the two cases whereby the rules are or not in conflict with the dictates of international law. Also, is the question of engaging international tribunals to determine the status and effect of a rule of municipal law that forms the basis of the defence of one of the parties to a case?

Monism

The monist theory derives its foundation from the thinking that both municipal law and international law draw their inspirations from a single system, which is the system of law, ideally therefore, there is no distinction between municipal law and international law. According to Starke (1977):

...monism regards all law as a single unity composed of binding legal rules, whether those rules are obligatory on States, on individuals, or on entities other than States. In their view, the science of law is a unified knowledge, and the decisive point is therefore whether or not international law is true law. Once it be accepted as a hypothesis that international law is a system of rules of a truly legal character, it is impossible to deny that the two systems constitute part of that unity corresponding to the unity of legal system.

In effect, monism emphasises the true legal character of international law, and with it is the municipal law, which both forms the interrelated parts of a single legal structure. A variant of monism however claims that the single legal structure is designed to bind humanity collectively or singly. In other words, the individual is the critical anchor for the unity of law.

Dualism

The theoretical underpinning of dualism is that municipal law and international law are products of two distinct legal systems; thus, the character, nature, contents and context of municipal law and international law are different (Asobele, 2000). The theory of dualism is also known as the Pluralistic theory simply because there are various numbers of domestic legal systems, and as such, the differences are reflected in the plurality.

The dualist view is a reflection of the opposition to the view that natural law determines the law of nations, and indeed, the very existence of States. In the views of dualist theorists, the independent existence of State-will and the development of the trend of domestic legislatures, thereby, State(s) claim to sovereignty, there is no longer contention about the duality of the system of law. The positivists are the most vocal in this school of thought. On the basis that international law has a consensual origin and municipal law as determined by individuals; there are therefore two remarkable differences between international law and municipal law.

Transformation Theory

This is one of the theories whose premises rest on the consensual nature of international law as contrasted against the non–consensual character of State law. Specifically, the transformation theory focuses on the differences between treaties on the one hand, and State laws or regulations on the other. The theory argues that there is a fundamental difference between treaties which are of the nature of promises and municipal law which are more of commands (Iriye, 2002). On this basis therefore, "a transformation from one type to the other is formally and substantively indispensable".

Specific Adoption Theory

This works in unison with the transformation theory. The argument is that the rules of international law cannot directly apply to cases within the domestic jurisdiction of States by the courts (Iriye, 2002). This can only be possible when such laws are taken through the process of specific adoption by, or specific incorporation into municipal law. The idea behind this notion is that the separateness of the two systems of law, in terms of structure, etc. international law cannot encroach into the domain of State law except the State allows its constitutional machinery to be applied for the purpose.

Delegation Theory

The last in this category is the delegation theory, which is an attempt to debunk the claims of the transformation theorists. The claim is the constitutional rule of international law delegates to each State Constitution the power to determine the conditions under which the provisions of a treaty or convention are to come into force and the manner in which they may be embodied into State law (Iriye, 2002). Furthermore, the procedures for this purpose are merely a continuation of the process undertaken at the end of the treaty or convention. In effect, the process of incorporating treaty laws is merely a constitutional requirement of State law since there is only a single mechanism for the creation of law. Thus, there is no need for the creation of rules or the transformation of treaty dictates to suit the constitutional provisions of States.

SELF–ASSESSMENT EXERCISE

Explain any three theories outlined above.

3.2 Primacy in the System(s) of Law

The argument is rife about where primacy resides; international law or municipal law? On the one hand, there is the view that State law is superior to international law. The inspiration for this conclusion is drawn from the dualistic theory of the sovereignty of the State-will. This submission is faulted on the premise that primacy would belong to not just one State but all of the States in the system, because any of them can lay claim to the oldest and superior legal order. In the final analysis, it is safe to submit that the question of primacy between international law and municipal law remains unanswered. This is not unconnected with the peculiar character of each of the systems of law, their cross-cutting functions and the complex nature of international relations.

SELF–ASSESSMENT EXERCISE

Outline and explain the features of Municipal Law

4.0 CONCLUSION

In conclusion, we can summarise that this unit has dealt with the sometime knotty issue of the relationship between the two systems of law. Using the analysis of the natural law system and the law of nations, the unit explains the theoretical persuasions that have been relevant in the analysis of the relationship between the two systems of law.

5.0 SUMMARY

The unit commenced with an explanation of the two major theories of the relationship of the two systems of law, and delves into the explanation of the complementary theories that continue to impact on the discourse about the relationship between the two systems of law. The unit ends with the conclusion that the issue of primacy between both systems of law remains unresolved.

6.0 TUTOR–MARKED ASSIGNMENT

Critically discuss the major differences between international law and municipal law.

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UNIT 5 TOPICAL ISSUES IN INTERNATIONAL LAW

CONTENTS

1.0 INTRODUCTION

This unit concerns itself with some of the salient issues germane to the understanding of the workings and processes of international law. The combination of the three issues discussed below have all the trappings of inter–state relations from all the important entries; socio–cultural, political/diplomatic and economic relations. International law speaks directly to the treatment of these issues in ways calculated to protect the dignity and respect of the human race. Through the instrumentality of the various United Nations conventions, the principles of international law attempt to regulate the international economic order such that growth and development can be spread across the globe, similarly, the same principles of international law attempt to promote equality of the human race despite differences in colour and lastly, regulate the standard of relations among state–actors.

2.0 OBJECTIVES

By the end of this unit, you will be able to:

- discuss the position of international law on racial discrimination
- explain the main issues in developing the international economic order
- explain the concept of diplomatic immunity and inviolability.

3.0 MAIN CONTENT

3.1 Racial Discrimination

The international system is composed of races differentiated along colour and ethnic lines, and divided by politically constructed geographical lines

of demarcation (Funk, 2010). Against the existence of differences and demarcations are the competitions for superiority among the various races whose only commonality rests on the common humanity shared. In some parts of the globe, these differences engender tough competition that lead to discrimination and hatred among the races.

The first international acknowledgement of the evils of racism and xenophobic tendencies came to light in 1960 when the incidents of anti-Semitism were elevated to the front-burner of international politics. The consequences of the development were recognised for its negativities, and state–actors realised the compelling need to thwart the dangers and hatred it could generate among the various races in the world. In full realisation and acknowledgement of its mandate of advancing a secure and prosperous world, the United Nations General Assembly adopted a resolution that condemns "all manifestations and practices of racial, religious and national hatred" and declared such as violations of the United Nations Charter and the Universal Declaration of Human Rights. Article 1 of The Universal Declaration of Human Rights (1948) categorically states: "all human beings are born free and equal in dignity and rights", specific reference is made to discrimination of any forms in Article 2, where the Declaration states: "everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion". In clear terms, the Convention condemns racial discrimination and instructs state parties to ensure the institutionalisation of mechanisms that would prevent the existence of racial discrimination through the pursuit of "appropriate means and without delay a policy of eliminating racial discrimination in all its forms".

SELF–ASSESSMENT EXERCISE

Explain the functions of Racial Discrimination Convention are expected to perform.

3.2 Diplomatic and Consular Immunity

The practical conduct of inter–state relations is carried out by professional diplomats who used to be special and ad–hoc representatives of sovereigns in ancient times. The trend changed in the modern times to appointments of permanent representatives with presence and residents in the host–states (Iriye, 2002). As the ears, mouths and eyes of the sending state, the diplomats represent all that is known of the sending-state. In this regard, the work of the diplomat is meant to be carried out without hitch, as such; there are established rules to protect his person and location in order to carry out his official duties and responsibilities effectively. This special status is undertaken through the granting of diplomatic and

consular immunity.

Diplomatic or consular immunity is simply the rights and privileges enjoyed by the official representatives of foreign countries from the legal jurisdiction of the country in which they are duly accredited. This is referred to as the inviolability of the person and properties of a diplomatic representative. The whole idea revolves round a form of legal protection in which diplomats are given safe passage and are protected from any form of lawsuit or prosecution under the legal dictates of their host-state. In contrast though, there have also been examples of adherence to the provisions of the Convention. An example is the case of Julian Asange (the whistle-blower) who has been given diplomatic asylum in the Ecuadorian Embassy in London, England since 2012. Despite being subject to a European Arrest Warrant, he is protected under the principles of extraterritoriality and therefore, there has been no attempt to forcefully arrest him. The act of the UK government in this instance is borne out of respect for the provisions of the Vienna Convention.

SELF-ASSESSMENT EXERCISE

Discuss the concept of diplomatic relations.

3.3 International Economic Order

The whole idea of rules governing international economic relations can be traced to the success of the Bolshevik Revolution and the emergence of the former USSR in 1917. The union of states adopted an economic policy of state ownership of the means of production which invariably established competition with the *laissez faire* policy that had hitherto been in place globally. The global arena eventually became divided into either free trade system or protectionist policies.

The dynamics of international relations however changed with the independence of hitherto colonised states in Africa and Latin-America. These new states protested the nature of international economic relations and agitated for a new forum and agreement that would be protective of their own aspirations. These agitations led to the first United Nations' Conference on Trade and Development in 1964. UNCTAD eventually became one of the permanent institutions of the General Assembly. The newly independents states turned out as peripheral players in international economic relations, a position that made them subservient to the US and its Western–European allies. They continued to agitate for better treatment in the international economic order, and this eventually paid off with the establishment of the United Nations Development Programme (UNDP) in 1965 and the United Nations Industrial Development Organisation (UNIDO) in 1966. The aim of these organisations is to

promote and accelerate industrial development in the developing countries.

4.0 CONCLUSION

The post–1945 era opened a new vista in the relationships among actors in the international system. The horrors of the Second World War, and the determination to avoid similar occurrence in future inspired global leaders to provide the platform through international law to regulate international relations. Hence, the existence of codes of conducts and laws guiding relationships between and among actors in the international system. Racial Discrimination, Diplomatic Immunity and the coordination of international economic relations are just some of the issues under the purview of international law.

5.0 SUMMARY

The first part of the unit dealt with the treatment of racial discrimination. The United Nations has done well in denouncing the act of racism and all other forms of discrimination, but unfortunately, discrimination still occurs today in various endeavours, especially, sports. The second part focused on the issue of diplomatic immunity, which remains relevant because of the need to promote diplomacy if the international system is to be peaceful and harmonious. Lastly, we treated the case of the international economic order, which is germane to the balanced and equitable growth and development of the world in general. Despite the efforts being made by the UN, we are yet to experience an international economic order that would benefit the world equally, third-world countries continue to bear the brunt of an unfair international economic order.

6.0 TUTOR–MARKED ASSIGNMENT

Define racial discrimination as given in Article1 of the UN Convention

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MODULE 2 FUNDAMENTALS OF INTERNATIONAL LAW

INTRODUCTION

Module 1 dealt with a contemplation of the conceptual clarification of the international law and organisation. This is important because as we shall soon see its far reaching implications on the future relations of the world. This unit provides exposition of the use of treaty as an instrument or mechanism for the promotion of world peace and economic prosperity. It also critically examines the law of treaty whilst paying attention to its fundamentals: meaning, sources and principles of the law of treaties; the processes involve in the enactment of the law of treaty; and, the operation, termination, suspension and invalidation of treaties. This module which is sub–divided into five units, will examine the various international law and their interaction with each other.

Unit 1 International Law of Treaties
Unit 2 International Law of the Seas
Unit 3 International Environmental Law
Unit 4 International Criminal Law
Unit 5 International Humanitarian Law

UNIT 1 INTERNATIONAL LAW OF TREATIES

CONTENTS

1.0 INTRODUCTION

The international system has over the ages evolved into an interdependent system, partly because human and material resources are unevenly distributed amongst nations, hence the need for cooperation amongst

state-actors. State actors interact, either bilaterally or multilaterally, to form common ground on issues of interest, which could be as diverse as the issue of non-proliferation of arms, law, trade, conflict resolution, aid, peace, politics, economic, sports and so forth. The various interactions become legalised when binding agreements are created between or among parties. The formal agreement between two or more countries is called a treaty. It is worthy of note that treaties are regulated through a set of international principles and rules known in the legal parlance as the Law of Treaties. Treaties aim to legally substantiate the relationship or cooperation between or among states.

2.0 OBJECTIVES

By the end of this unit, you will be able to:

- provide a basic understanding of the law of treaty
- critically analyse the phases leading to the conclusion of treaties
- explain some basic terminologies of treaty.

3.0 MAIN CONTENT

3.1 The Meaning and Sources of International Law of Treaties

The imperativeness of conceptualising the term 'treaty' cannot be overemphasised as it would provide us with better insight into the meaning and the significance of the 'international law of treaty'. Invariably, without the former the latter will be non-existing. The question that is begging for an answer is: What is a treaty? Treaty is analogous to such terms as 'agreement', 'covenant', 'protocol', 'convention', 'exchange of letters' or 'contract' (Kraska, 2008). So, simply put treaty is an agreement, a special form of official written agreement entered into by State actors or non–state actors (especially international governmental organisation) to legally bind themselves on issues of common interest to the parties.

The Vienna Convention on the Law of Treaties provides a conceptual clarification of treaty when it defines the term as:

"an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation."

There are two types of treaty: bilateral treaty and multilateral treaty-

1. An official agreement could be regarded as bilateral treaty if it involves only two States

2. Multilateral treaty – if it involves three or more State.

As noted earlier, two types of treaty can be identified, namely, bilateral treaty and multilateral treaty. The former is an international agreement concluded between two states while the latter is concluded between three or more states. It is also very possible to have a bilateral treaty where the parties are more than two. For instance, a treaty between a country and an intergovernmental organisation which membership are nation–states like the European Union or the African Union. As with most contracts and agreements there are also rules that guide the 'conclusion procedure of treaties'.

Accordingly, Law of Treaties is described as: a set of international principles and rules regulating the conclusion procedure of treaties, as well as the issues of operation, amendments and modifications, termination, suspension and invalidity of treaties. Sources of International Law of Treaties signify the basis from which the rules and regulations guiding the conclusion procedure of treaty come into existence with binding force. Several factors have contributed to the development of International Law of Treaties and the factors constitute its sources.

SELF–ASSESSMENT EXERCISE

Explain the meaning of treaty.

3.2 Variations in Names of Treaties

There are various nomenclatures by which treaties can be referred. The differences in terminology are a reflection of the procedure or formality in the processes of making the treaty. As explained by Starke (1977), these are some of the names that treaties are known by:

1. **Convention–** this is used for a multilateral instrument. Furthermore, it includes Instruments adopted by the organs of international organisations, e.g.; International Labour Conference.
2. **Protocol–** it is an agreement that is less than a treaty in respect of formality. This agreement is usually not in the Heads of State form.
3. **Agreement–** this instrument is less formal than a treaty or Convention, and also not in Heads of State form. It is usually applied to agreements of more limited scope and with fewer parties than the ordinary Convention. Ultimately, it is only employed for agreements of a technical or administrative nature only, signed by the representatives of Government Departments, but not subject to ratification.
4. **Arrangement–** this is used for a transaction of provisional or temporary nature.

5. **Procès–Verbal–** it is both the summary of the proceedings and conclusions of a diplomatic conference and also the record of the terms of agreement reached between the parties. Furthermore, it is used to record an exchange or deposit of ratifications, or for an administrative agreement of a purely minor character, or to effect a minor alteration to a Convention. It is usually not subject to ratification.
6. **Statute –** this can be categorised into three: (a) a collection of consistent rules relating to the functioning of an international institution; (b) a collection of rules laid down by international agreement as to the functioning under international supervision of a particular entity; (c) an accessory instrument to a Convention setting out certain regulations to be applied.
7. **Declaration–** the meaning can be expressed in the following ways: (a) proper treaty; (b) an informal instrument appended to a treaty or Convention;(c) an informal agreement with respect to a matter of minor importance; (d) a resolution by a diplomatic conference, enunciating some principles for observance by all states.
8. **Modus Vivendi–** this is an instrument recording an international agreement of a provisional character intended to be replaced by an arrangement of a more permanent and detailed nature. It is usually made in an informal way and requires no ratification.
9. **Exchange of Notes (Letters)–** this is an informal method in which States subscribe to certain understandings as binding on them. It could be affected through the diplomatic or military representatives of the concerned States. It could be bilateral or multilateral.
10. **Final Act–** refers to an instrument which records the winding up of proceedings of the Conference summoned to conclude a Convention. It summarises the terms of reference of the Conference, and enumerates the States or Heads of States represented, the delegates that participated in the discussions, and the instruments adopted by the Conference. Furthermore, it sets out resolutions, declarations and recommendations adopted by the Conference which were not incorporated as provisions of the Convention. It may also contain interpretations of provisions in the formal instruments adopted by the Conference. The Final Act does not require ratification.
11. **General Act–** this is a treaty that could be of either formal or informal character.

3.3 The Principles of Law of Treaties

In both the Preamble and Article 26 of the Vienna Convention on Law of Treaties (VCLT) 1969, there are three basic principles underlying the Law of Treaties, namely: Free Consent; Good Faith and Pacta Sunt Servanda. Furthermore, the list also includes the following principles; Jus *Cogens*, Rebus *Sic Stantibus* and Favor *Contractus.* These principles are explained in the following paragraphs.

Free Consent
The principle of Free Consent is adequately captured in Paragraph 3 of the Preamble of the Vienna Convention of the Law on Treaties of 1969. The principle simply says treaty should be concluded based on free will of the state. It is a reaction to the use of threat or force to compel states to enter into treaties against their will. The principle categorically states that: International agreements are binding upon the parties and solely upon themselves. These parties cannot create either obligations or rights for third States without their consent.

Good Faith
Good Faith is also one of the fundamental principles of law of treaties. The imperativeness of the principle of good faith to the conduct of relations among States in the international system cannot be overemphasised. Little wonder, the principle is also adequately represented in Paragraph 3 of the Preamble of the Vienna Convention on the Law of Treaties. Good Faith has been described as requiring "fairness, reasonableness, integrity, and honesty in international behaviour". It could be inferred from the foregoing that the absence of good faith in international relations is an invitation to anarchy, chaos and the breach of international peace and security.

Pacta Sunt Servanda
This is also one of the fundamental principles of the Law of Treaties; it is also captured in the Preamble to the Vienna Convention on the Law of Treaties. More also, to underscore the significance of this principle, Article 26 of the Convention explicitly states the crux of the principle. According to the article, "Every treaty in force is binding upon the parties to it and must be performed by them in good faith". Oyebode (2012) opined that "while states are duty bound to implement treaties in good faith, in compliance with the *pacta sunt servanda* maxim, that is as far as international law goes".

SELF–ASSESSMENT EXERCISE

Explain the various principles of treaty

3.4 The Phases of Treaties' Conclusions

Conclusion is an integral part of treaty making; this is because the provisions of the treaty would only take effect after the conclusion. The conclusion of international treaties has been described as: the process of becoming contractual norms of international law and the formation of an agreement between States, expressed in successive stages, and legal action, whose content depends on mutual interests, intentions, positions, legislation and practices of the parties, the substance, object and purpose agreement.

It should be borne in mind at this juncture that the conclusion of treaty is a technical and rigorous process; it is a complex process consisting of successive stages, sub-stages and legal actions which include but not limited to preparation and adoption of the treaty text, signing, ratification, and exchange of instruments of ratification. Consequently, the conclusion of international treaties requires a step-by-step approach and involves a long process as a result of the "complexity of objects of contracts, the nature and number of participants".

With respect to the first stage the draft of the text of the treaty is adopted by agreement of all the parties to the treaty and in the case of multilateral agreement by the two-thirds majority of the parties. The second stage is carried out by signature; signature and referendum or initialing by the representatives of the States participating in the drafting of the text of the treaty in order to establish it as "authentic" and "definitive". The third and final stage involves consent to be bound which can be in the form of signature, ratification or accession, which, by and large, depends on the manner provided for in the treaty itself.

3.5 Concepts in Treaty Relations

There are some terminologies of the law of treaties that we need to be conversant with. These include operation, termination, suspension and invalidity of treaty. They shall be treated one after the other as follows:

Operational Treaty

A treaty becomes operational when it has been adopted, signed and ratified by parties involved in its making. Operation of treaty has its manifestation in the execution and implementation of the treaty. It is noteworthy that while some treaties may be self-executing, i.e. by becoming a party to a treaty automatically puts it and all its obligations in action. Some treaties do not follow this pattern; in fact, they require some processes before they can become operational. Oyebode (2012) describes these processes as including the "municipal performance of the agreement" which usually effect a change in the municipal/domestic law

of a State in order to accommodate the fulfilment of the treaty obligations.

Suspension and Termination of Treaties

Treaties can be temporarily suspended or totally terminated. There are several reasons these actions can be taken; however, the most cogent among them is the fact that if one of the parties to a treaty materially violates or breaches its treaty obligations, then the other parties may invoke this breach as a basis for either temporarily suspending their obligations to the parties defaulting or permanently terminate the treaty. It should be quickly added that suspension or termination of treaty are done in accordance to the rule of law by presenting the matter before an international court or tribunal, failure to do this makes the party culpable. It is noteworthy that there is provision for 'self-termination' of treaties. In other words, a treaty may be concluded to achieve a specific objective or condition within a time frame and once these conditions are met the treaty automatically ceases to exist, thereby no longer binding.

Invalidity of Treaties

There is another crucial point to note about treaty: treaties can become invalid. In recognition of the importance of the invalidity of treaties, Articles 46, 47, 48, 49, 50, 51, 52, and 53 of the Vienna Convention on the Law of Treaty explicitly capture the ways through which treaties can be invalidated. These are: (a) when treaties become 'ultra vires'; (b) when a treaty is against 'peremptory norms'; (c) when there is evident misunderstanding between the parties or elements of fraudulent activities, like corruption or fraud or if any party to the treaty is coerced through the threat or the use of force to compel the party to be a signatory.

3.6 United Nations as the Custodian of Treaties

The United Nations Organisation is the foremost intergovernmental organisation in the world. The membership is composed of all existing sovereign states. Due to the role the United Nations plays in maintaining peace and order in the international system, and ensuring harmonious and peaceful inter-state relations, the organisation plays a significant role in the processes of treaty making. The Charter of the UN expressly states that treaties must be registered with the organisation in order for the treaties to be invoked before it or to become enforceable in its judicial organ, the International Court of Justice. This becomes necessary to prevent the problems associated with the proliferation of 'secret treaties'.

4.0 CONCLUSION

The utmost significance of treaty and by extension the law of treaty in guiding the peaceful conduct of states in the international system cannot be overemphasised. Treaty making and observance of the rules and

regulations guiding treaty make the international system less anarchic thereby preventing the degeneration to the nadir of civilisation as witnessed in the 19th century. The role of the United Nations, its judicial organs and the Vienna Convention on the Law of Treaties which came into force in 1969 speak eloquently of the necessity for State actors to respect any legal agreement they voluntarily conclude with other state(s).

5.0 SUMMARY

What we have done in this unit is to dissect the international law of treaties, the principles as well as the stages for the conclusion of law of treaties. In a nutshell, treaty, an official agreement put in a written form that legally binds states or parties to it, is a mechanism that has been instrumental to the maintenance of world order and to a greater extent has been able to curtail the outbreak of another world war.

6.0 TUTOR–MARKED ASSIGNMENT

Differentiate between suspension, termination and invalidity of treaty.

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UNIT 2 INTERNATIONAL LAW OF THE SEAS

CONTENTS

1.0 INTRODUCTION

International Law of the seas, popularly known as 'Law of the Sea' explicitly enshrined in the United Nations Convention on the Law of the Sea (UNCLOS), which has been tagged with several nomenclatures such as "Law of the Sea Convention", "The Law of the Sea Treaty' or "Constitution for the Oceans", is one of the branches of international law. It is majorly concerned about how to achieve and maintain peace, decorum and order at seas. The importance of the sea to humanity cannot be overemphasised. The sea is very useful for navigation, transit, fishing, transportation and scientific research just to mention a few. Additionally, the economic importance of the sea for international trade is very pertinent. Little wonder then much attention is given to how the activities of the users of the oceans of the world should be regulated so as to forestall disorderliness on the territorial waters. This unit deals with the various issues pertaining to the laws of the seas.

2.0 OBJECTIVES

By the end of this unit, you will be able to:

- reflect on the meaning and significance of the seas
- state the importance of the United Nations Convention on the Law of the Seas.

3.0 MAIN CONTENT

3.1 The Nature and Significance of the Seas/Oceans

Though with little distinction, sea and ocean are often used interchangeably as they are assumed to be synonymous. However, a sea is a "large body of saline water that may be connected with an ocean"; an ocean, on the other hand, is "a continuous body of water encircling the earth" (Kraska, 2008). Whilst there are several seas in the world, there exit only five principal oceanic areas that are delimited by the continents and various oceanographic features. These include the Atlantic Ocean, Arctic Ocean, Indian Ocean, Pacific Ocean and Southern Ocean. Due to the fact that some seas make up an ocean, perfect line of demarcation may not be successfully drawn between the sea and the ocean hence, the rationale for the interchangeable use. So, we have the law of the 'seas', the convention on the 'seas' or the constitutions of the oceans. Invariably, in this unit both terms are used interchangeably.

The Seas form an integral part of the universe. In fact, it takes close to three quarter of the entire earth surface. It is on record that the "earth's oceanic waters…comprises the bulk of the hydrosphere, covering almost 71% of the earth's surface, with a total volume of 1.332 billion cubic kilometers". Seas are very strategic to human civilisation since they provide medium for the transportation of humans and cargoes, navigation and exploration, conduct of marine scientific research, fishing on the high seas, trade and investment, installations of scientific equipment, construction of seaport, adventures and tourism, exploration and exploitation of mineral resources and mining just to mention but a few.

3.2 Foundations of Modern Ocean Law and Policy

The oceans law and policy are meant to promote rule of law in the world's oceans; the essence of international maritime agreement among nations of the world is the promotion of the understanding of and adherence to the rule of law so that anarchy and chaos would not be the order of the day (Kraska, 2008). So, as we have the law of the land that guides the conduct of humanity, so there is also the law of the oceans that regulate the activities of seafarers. It should be noted that the development of modern oceans law and policy could be traced to the emergence of *Lex Rhodea* popularly known as Rhodian Sea Code that was popularised around 8th century A.D. However, modern ocean laws got crystallised through the exertions of Hugo Grotius. In the early 17th century Grotius, a Dutch scholar, produced a treatise titled *Mare Liberum* meaning "freedoms of the seas".

Grotius' contribution was a watershed in the development of law of the seas in as much as nations adopted the concept of the "freedoms of the seas" as the guiding principle that regulates their activities in the oceans. As maritime relations became more sophisticated the treatise put forward by Grotius was subjected to critical review especially in the 20th century. So, from the debris of *Mare Liberum* there have arisen new laws guiding maritime relations.

SELF–ASSESSMENT EXERCISE

Critically discuss the origin of modern ocean law.

3.3 Overview of United Nations' Conventions on the Law of the Seas (UNCLOS)

As noted above, with the passage of time the weaknesses of *Mare Liberum* became obvious and a more dynamic alternative becomes inevitable. In the "freedom of the seas" concept, national rights were limited to a specified belt of water extending from a nation's coastlines, usually three nautical mile. All waters beyond national boundaries were considered international waters: free to all nations, but belonging to none of them.

In the absence of existing instruments to the contrary, some states including the US in 1945 exercised their rights under the customary international law principle of protecting their natural resources even on the seas. The US took control of the natural resources on its continental shelf; this action was also taken by Chile, Peru and Ecuador by extending their rights to three hundred and seventy kilometers to cover specific fishing areas.

This first conference was considered successful; however, there were still unanswered questions on the issues of the breadth of territorial waters. This prompted the need for more deliberations. The second conference in 1960 UNCLOS (II) did not result in any significant improvement on the first round of agreements. As a result of lack of standards, there emerged a situation of varying claims on territorial waters. The need to avert conflicts over territorial waters led to the 1973 Conference of the UN on issues pertaining to the seas. The conference lasted between 1973 and 1982 and culminated in UNCLOS (III).

The convention establishes the regime for contemporary oceans law by setting out rules governing the rights and jurisdiction of nations in various maritime zones. This Convention often refers to as the 'constitution of the oceans' covers virtually all activities in the ocean, thus provides the modality for the development of a branch of international law that has its

convergences on seas and its uses. With over one hundred and sixty signatories the convention passes for a customary international law in all its ramifications.

Some Basic Features of the Convention UNCLOS

1. Coastal States exercise sovereignty over their territorial sea which they have the right to establish its breadth up to a limit not to exceed 12 nautical miles; foreign vessels are allowed "innocent passage" through those waters;
2. Ships and aircraft of all countries are allowed "transit passage" through straits used for international navigation; States bordering the straits can regulate navigational and other aspects of passage;
3. Archipelagic States, made up of a group or groups of closely related islands and interconnecting waters, have sovereignty over a sea area enclosed by straight lines drawn between the outermost points of the islands; the waters between the islands are declared archipelagic waters where States may establish sea lanes and air routes in which all other States enjoy the right of archipelagic passage through such designated sea lanes;
4. Coastal States have sovereign rights in a 200–nautical mile exclusive economic zone (EEZ) with respect to natural resources and certain economic activities, and exercise jurisdiction over marine science research and environmental protection;
5. All other States have freedom of navigation and over flight in the EEZ, as well as freedom to lay submarine cables and pipelines;
6. Land–locked and geographically disadvantaged States have the right to participate on an equitable basis in exploitation of an appropriate part of the surplus of the living resources of the EEZ's of coastal States of the same region or sub-region; highly migratory species of fish and marine mammals are accorded special protection;

In furtherance of the UN’s commitment to ensuring peaceful, harmonious and beneficial relations on the management of the world’s sea, the organisation established a division to manage issues related to the Law of the Seas. The division is called, the “Division of Ocean Affairs and the Law of the Sea”.

3.4 Relevant Areas and Baselines for Sea Relations

There are some technical areas whose definitions and measurement are important to conflict–free sea relations. It is important for us to understand the meanings of these areas for a better understanding of the contents of the Convention. Some of these are explained below.

Contiguous Zone

The law of the sea recognises the importance of the 'contiguous zone.' According to Article 33 of the United Nations Convention on the Laws of the Seas 1982: (a) in a zone contiguous to its territorial sea, described as the contiguous zone, the coastal State may exercise the control necessary to: prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea and; punish infringement of the above laws and regulations committed within its territory or territorial sea. (b) the contiguous zone may riot extend beyond 24 nautical miles from the baselines from which the breadth of the territorial sea is measured.

Exclusive Economic Zones

The significance of the 'Exclusive Economic Zones' cannot be overemphasised, little wonder then that about 20 articles: Articles 55–75 in the United Nations Convention on the Laws of the Sea was dedicated to it. Article 55 defines the EEZ thus: The exclusive economic zone is an area beyond and adjacent to the territorial sea, subject to the specific legal regime established in this Part, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of this Convention.

Continental Shelf

This also receives the attention of the parties to the United Nations Convention on the Law of the Sea of 1982 as Article 76 to 82 explicitly captured the essence of the continental shelf. With regard to the seabed beyond territorial waters, every coastal country has exclusive rights to the oil, gas and other resources in the seabed up to 200 nautical miles from shore or to the outer edge of the continental margin, whichever is the further, subject to an overall limit of 350 nautical miles (650km) from the coast or 100 nautical miles (185km) beyond the 2,500metre isobaths (a line connecting equal points of water depth). In the continental shelf the coastal countries have the reserved right to exploit mineral and non-living resources in the subsoil; they also have the exclusive rights over the living resources found within the continental shelf.

3.5 Other Issues Relevant to the Law of the Seas: Claims of Sovereignty over the High Seas

Article 89 of the United Nations Convention on the Law of the Seas addresses the invalidity of claims of sovereignty over the high seas. It states that: "No state may validly purport to subject any part of the high seas to its sovereignty'. The implication of this is that all states of the world, either coastal or landlocked, have unrestricted access to use the high seas either for 'navigation', over flight, laying 'submarine cables and pipelines' constructing 'artificial islands and other installations permitted

under international law, ‘fishing’ or ‘scientific research’.

Sea Piracy
Doing business on the high sea, at times, could be dangerous as a result of the activities of the pirates. These are the equivalent of armed robbers on the land. Sea piracy poses a serious threat to the seafarers and the law of the seas also seeks means for addressing the problems.

Land–Locked States
The conditions of land-locked states are also addressed by the United Nations Conventions on the Law of the Seas of 1982. Article 124 of the convention defines the land-locked state as a ‘state which has no sea-coast’. There are eighteen of those states in the world. In Africa land-locked States include Burundi, Central Africa Republic, Ethiopia, Niger, Rwanda, South Sudan and Swaziland.

3.6 International Tribunal for the Law of the Seas and International Seabed Authority

The judicial bodies that are equipped with the power for exercising authority over ocean matters, interpreting seas laws, settling ocean disputes and providing advisory opinions among others are the International Tribunal of the Law of the Seas and the International Seabed Authority. The United Nations Convention on the Law of the Seas (UNCLOS) of 1982 provides for the establishment of these two judicial bodies that engage in the arbitration on oceans dispute.

The International Tribunal for the Law of the Sea is an independent judicial body with the mandate of adjudicating on disputes arising from the interpretation and application of the United Nations Conventions on the Law of the Seas 1982. The Tribunal has jurisdiction over any dispute concerning the interpretation and application of the Convention, and over all matters specifically provided for in any other agreement which confers jurisdiction on the Tribunal.

SELF–ASSESSMENT EXERCISE

What is the role of the international tribunal for the law of the Sea?

4.0 CONCLUSION

Seas are very important for mankind. Their benefits include navigation, transportation, scientific research and fishing, among others. In a bid to prevent the breakdown of law and order on the world’s oceans, the law of the seas was invented and among its provisions are the means of ensuring peaceful conduct among ocean users.

5.0 SUMMARY

What we have done in this unit is to holistically provide insight into the basic issues concerning the international law of the sea. We have succeeded in conceptualising the sea/ocean as well as other oceans' terminologies. There is also an exposition on the United Nations Convention on the law of the sea, and also an insight into some other issues that concern the management of the sea.

6.0 TUTOR–MARKED ASSIGNMENT

What are the positions of UNCLOS III on sea-piracy and landlocked states?

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UNIT 3 INTERNATIONAL ENVIRONMENTAL LAW

CONTENTS

1.0 INTRODUCTION

The state of the environment is crucial to human existence, hence the need to regulate its management. The management is undertaken through the institutionalisation of legal regimes to coordinate the activities of both state and non–state actors in ensuring that the ultimate aim of global environmental sustainability is achieved. Environmental laws are therefore the preferred standards instituted by states established to manage natural resources and environmental quality. This unit intends to shed light on the legal regulations pertaining to the environment. In this endeavour, we would examine the basic features of international environmental law and the UN instrument through which the protection of the environment is sought.

2.0 OBJECTIVES

At the end of this unit, you should be to:

- explain the basic features of international environmental law
- discuss the role of the UN in ensuring that the global environment is adequately protected
- state the processes of international environmental law.

3.0 MAIN CONTENT

3.1 Nature and Character of International Environmental Law

To start with, the whole gamut of environmental law is a combination of the text, the regulations that implement them and the judicial decisions that interpret it. IEL is made up of conventions, regulations, statutes and

relevant municipal laws intended to manage and regulate how the human-race maximise the natural environment without causing damage that would jeopardise the future of the human–race (Iriye, 2002). The origin of IEL is traceable to the 1960s when it became apparent that "the natural environment was fragile and in need of special legal protections". The fragility of the environment became even more amplified with the growth and development in science, technology, marine and fisheries, ecology, space-science and agriculture.

3.2 Norms of International Environmental Law

Norms are customary rules that are adhered to by parties to an agreement. They are not necessarily codified in a document, yet they form part of the basis of relationships. We have drawn extracts from "Global Change Instruction Programme" to present the leading norms in the field of international environmental law.

3.3 Administration of the International Environmental Law

The 1960s agitations for managing the environment received a welcome boost in 1972, with the convening of the United Nations Conference on the Human Environment. At the conference, the Declaration was made thus: A point has been reached in history when we must shape our actions throughout the world with a more prudent care for their environmental consequences. Through ignorance or indifference, we can do massive and irreversible harm to the earthly environment on which our life and wellbeing depend. Conversely, through fuller knowledge and wiser action, we can achieve for ourselves and our posterity a better life in an environment more in keeping with human needs and hopes.

The success of the Conference was a call to action for the UN General Assembly, which afterwards established the United Nations Environment Programme. The mission of UNEP is: "to provide leadership and encourage partnership in caring for the environment by inspiring, informing, and enabling nations and peoples to improve their quality of life without compromising that of future generations.

SELF–ASSESSMENT EXERCISE

Explain the methods by which international environmental law is enforced.

3.4 Sources of International Environmental Law Treaties, Conventions and Agreements

Characteristically, international environmental agreements are first and foremost creations of treaties or conventions. In a significant sense, such treaties or conventions are tailored towards resolving specific environmental issues, not less because of the complexities in tackling environmental challenges. The place of the environmental is extremely crucial in the modern world, especially with the ever-increasing spread of globalisation, hence, the significantly high volume of conventions relating to environmental law.

Furthermore, the adoption of Protocols has been critical in the field of international environmental law because of its flexibility which allows the incorporation of scientific findings in an already existing rule. Also, it provides the avenue for state-actors to reach subtle agreements on issues that may generate controversies. The Kyoto Protocol which came on the heels of the United Nations Framework Convention on Climate Change is the most significant today.

Organisations, Institutions and Bodies

In the process of creating treaties and multilateral agreements for managing environmental challenges, states often create other actors, such as international organisation and bodies that monitor the implementation and enforcement of the processes. Some of these are: (i) the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); and (ii) the International Union for Conservation of Nature (IUCN).

Customary International Law

The codes of conduct and norms that have become practices among state-actors are essential sources of rules and laws for the management of the global environment. For instance, under this arrangement, Principle 21 of the Stockholm Declaration which emphasises “Good Neighborliness” is an essential basis for the creation of international environmental law. Similarly, the responsibility of warning state-actors about icons that could cause environmental damages to exposed states is also a fundamental customary practice that is acceptable to all states.

International Judicial Decisions

The decisions of relevant courts in cases related to international environmental law are crucial to the development of the laws guiding environmental relationships among states. Some of the important courts in this regard include; The International Court of Justice (ICJ), the International Tribunal for the Law of the Sea (ITLOS), etc, and other regional treaty tribunals.

SELF–ASSESSMENT EXERCISE

Outline and discuss the sources of international environmental law.

4.0 CONCLUSION

This unit focused on one of the fundamental issues that bind the world-the environment. Damages to the environment that cause such reactions as; ozone layer depletion, greenhouse effects, etc. are of international magnitude and concern to all state–actors. Thus, the need for concerted efforts in managing the exploitation and exploration of the global environment resulted in the creation of international environmental law.

5.0 SUMMARY

The unit basically dealt with the features of international environmental law, which from all intents and purposes include the protection of the environment from damages, such that the benefits of the present would not jeopardise the future of the world. Also, the unit explains the methods of administering and enforcing the rules, which is part of the norms accepted by all states. Lastly, the sources of international environmental law are treated.

6.0 TUTOR–MARKED ASSIGNMENT

List and explain the natural resources and environmental quality managed by international environmental law.

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UNIT 4 INTERNATIONAL CRIMINAL LAW

CONTENTS

1.0 INTRODUCTION

International criminal law can be described as the branch of international law instituted to inhibit individuals from committing offences considered as grave misconduct and atrocities against their fellow men, and by extension it seeks to prosecute those found culpable of such offences. This unit would attempt to put the whole gamut of issues related to international criminal law in perspectives. It would deal with the types of war crimes based on the dictates of existing laws and statutes and also explain the various instruments that have been used as instruments for implementing the law in the past.

2.0 OBJECTIVES

By the end of this unit, you will be able to:

- explain the types of war crimes recognised by international criminal law
- explain the workings of at least two tribunals for the prosecution of war crimes.

3.0 MAIN CONTENT

3.1 History of International Criminal Law

The principle of prosecuting individuals held accountable for criminal activities in a war situation has a very long history, dating back to the pre-First World War era. However, the actual exercise of establishing a body instituted as an international crime tribunal to try accused war criminals came into being after the First World War. A very significant

development at the time was the content of the Treaty of Versailles which recommended the setting up of an international war tribunal to try Wilhelm II of Germany. This however did not materialise because he was granted asylum in the Netherlands.

The need to try more criminal became more intense in the aftermath of the Second World War. This is because the level of destruction of property was massive, millions of human lives were lost, and also, the treatment of persons caught in the line of fire had become unacceptable to the international community. If the trend had been allowed to continue, the world would continue to degenerate into barbarism and bestiality. More importantly, the negative contributions of individuals to the various levels of criminality did not go unnoticed. Hence, the idea of individual criminal responsibility for serious breaches of international law gained ground in this period.

Overtime, the system of international criminal law continues to grow to meet the demands of the period. A significant effort in this direction was the United Nations Security Council's establishment of the International Criminal Tribunals for the Former Yugoslavia (ICTY) in 1993 and the International Criminal Tribunal for Rwanda in 1994 after the war in Bosnia and the genocide in Rwanda respectively. In an unprecedented move, the Rome Statute establishing the International Criminal Court was signed in 1998. Under this statute, the first arrest warrants were issued in 2005.

Presently, the system for the prosecution of international criminal activities is organised around the establishment of the following institutions; ad–hoc tribunals, internationalised or mixed tribunals, the International Criminal Courts and national courts (both military tribunals and national courts). In turning a perceived criminal act into an international crime, the prosecution has the advantage of universal prosecution, which allows the case to be heard in the law court of any state, even when there is no link between the state and the accused.

SELF–ASSESSMENT EXERCISE

Summarise the history of international criminal law.

3.2 What are International Crimes?

In order that the law can take its course under perceived violations under international criminal law, an international crime is defined as an act universally recognised as criminal, which is considered a grave matter of international concern and for some valid reason cannot be left within the exclusive jurisdiction of the state that would have control over it under

ordinary circumstances. Specifically, the 1949 Geneva Conventions provides the following as a list of international crime: (i) war crimes; (ii) crimes against humanity; (iii) genocide; and (iv) torture.

War Crimes

This considered as all acts involving "grave breaches" in the process of armed conflict and all other massive violations of international humanitarian values in any form of conflict, whether international or non-international. Some of such atrocities may include: (i) Murder and the ill–treatment of civilian residents of an occupied territory; (ii) Murder or ill–treatment of prisoners of war; (iii) The wanton destruction of cities, towns or villages; and (iv)Any devastation visited on a people but not justified by military or civilian necessity.

Crimes against Humanity

These basically are all acts that denigrate and inflict pains on humans. Usually, it is an orchestrated attempt, either by a group or a government against presumed opponents to subdue and inflict eternal injuries on the consciousness of the victims. The perpetrators engage in broad and large-scale dehumanisation of the victim–population.

The Rome Statute of the International Criminal Court puts it more succinctly. In the Explanatory Memorandum, crimes against humanity are described as: Particularly odious offenses in that they constitute a serious attack on human dignity or grave violation or a degradation of one or more human beings. They are not isolated or sporadic events, but are part either of a government policy (although the perpetrators need not identify themselves with this policy) or of a wide practice of atrocities tolerated or condoned by a government or a de facto authority.

Genocide

This act encompasses all attempts to destroy, in whole or in part, a national, ethnical, racial, or religious group (Funk, 2010). It is a deliberate attempt to wipe out a group under whatever pretext. The meaning of genocide is elaborated in Article 2 of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide thus: any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such: killing members of the group; casing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life, calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; and forcibly transferring children of the group to another group.

Torture
This is regarded as a violation of human rights, and when carried out in the course of war or armed conflicts, it is considered as a crime under international criminal law. Torture is outlawed under Article 3 of the 1949 United Nations Conventions and the 1998 Statute of the International Criminal Court. It is basically an intentioned infliction of harm or pain on a person or people in order to either punish or extract information from them. It is also described as an aggravated form of inhuman treatment.

3.3 Institutions for Prosecuting Violators of International Criminal Law

The atrocities of individuals during the First World War and the Second World War did not go unnoticed. Thus, ever since then, there had been calls for the establishment of a permanent international criminal court to prosecute individuals accused of breaching international codes of conduct in the periods of armed conflicts or war. However, the establishment of such a court did not materialise because of the following reasons: (i) the cold-war tension between the east and the west bloc; (ii) the system instituted by the *1949 Geneva Conventions* to punish grave breaches of international humanitarian law through national courts was not put in practice.

The conditions were altered with the establishment in 1993 and 1994 of the two ad-hoc international tribunal, for namely; former Yugoslavia and Rwanda respectively by the Un Security Council. In a similar tradition, such other tribunals have been set up for Cambodia, East Timor, Kosovo, and Sierra–Leone. Instructively, these tribunals are established with the consent of the state on whose territory the atrocities were committed. Also, the national legal aspect of the hosting states is included in the establishment of the ad–hoc tribunals and in the implementation of their judgments. The process of punishing offenders or those breach international codes of conduct in the period of armed conflict got a further boost with the adoption of the 1998 Rome Statute for an International Criminal Court.

International Criminal Court
This court came into existence on the 1st of July, 2002 following the coming into force of its founding treaty, the Rome Statute of the International Criminal Court. It is established as a permanent international tribunal to prosecute individuals that have been accused the various crimes of armed conflicts or war crimes, as spelt out in the 1949 Geneva Conventions. The court's mandate combines the prosecution of cases in violation of both international human rights law and international humanitarian law. It is restricted to prosecute crimes committed on or after the date of its establishment. According to Article 17 of the 1998

Rome Statute of the International Criminal Court: "the Court is intended to complement existing national judicial systems and can exercise its jurisdiction only if national courts are genuinely unwilling or unable to investigate or prosecute such crimes.

Structure of the Court

The court is divided into four units; presidency, judges, prosecutor and registry.

1. **The Presidency:** this office is responsible for the overall administration of the Court, with the exception of the Office of the Prosecutor, and for specific functions assigned to the Presidency in accordance with the Statute. The Presidency is composed of three judges of the Court, elected to the Presidency by their fellow judges, for a term of three years.

2. **Judicial Divisions:** consist of eighteen judges organised into the Pre–Trial Division, the Trial Division and the Appeals Division. The judges of each Division sit in Chambers which are responsible for conducting the proceedings of the Court at different stages. Assignment of judges to Divisions is made on the basis of the nature of the functions each Division performs and the qualifications and experience of the judge. This is done in a manner ensuring that each Division benefits from an appropriate combination of expertise in criminal law and procedure and international law.

3. **Office of the Prosecutor:** this is responsible for receiving referrals and any substantiated information on crimes within the jurisdiction of the Court, for examining them and for conducting investigations and prosecutions before the Court.

4. **The Registry:** this office is responsible for the non-judicial aspects of the administration and servicing of the Court. The Registry is headed by the Registrar who is the principal administrative officer of the Court. The Registrar exercises his or her functions under the authority of the President of the Court.

SELF–ASSESSMENT EXERCISE

Explain the role of the international criminal court in combating international crimes.

4.0 CONCLUSION

The unit provides insight into the fundamentals of international criminal law. In the unit, we are made aware of the specific crimes that attract

prosecution under international criminal court. Furthermore, explanations are provided regarding the institutions that implement breaches of international criminal law.

5.0 SUMMARY

The unit commenced with the history of international criminal court. Here, we are made aware that there have always been means of prosecuting individuals that breach the code of conducts in the periods of war, however, the means were never really effective until the establishment of a permanent International Criminal Court through the Statute of Rome in 2002.

6.0 TUTOR–MARKED ASSIGNMENT

Critically discuss the structure of the International Criminal Court.

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UNIT 5 INTERNATIONAL HUMANITARIAN LAW

CONTENTS

1.0 INTRODUCTION

This unit deals with managing one of the essential characteristics of inter-state relations; war and conflicts. In the course of human history, war and conflicts have remained constant in inter–state relations, and this is basically because of the clashes of interests pursued by every state. In the pursuit of such national interests, alliances are formed and broken, and in the process, inter-state wars or conflict become the natural consequence. With the knowledge of the fact that wars and conflict are inevitable in international relations, actors in the system continue to evolve mechanisms for managing wars and conflict. The reasons for this is to ensure that man does not become barbaric against fellow man, and partly because of the need to protect those that are not directly involved in the war, and those that are harmless in the course of the war. The unit would examine the meaning of international humanitarian law and all the efforts to ensure its tenets are sustained.

2.0 OBJECTIVES

By the end of this unit, you will be able to:

- explain the tenets of international humanitarian law
- identify forms of conflicts under the purview of international humanitarian law.

3.0 MAIN CONTENT

3.1 Dynamics of International Humanitarian Law

International humanitarian law can simply be defined as the law of armed conflict or law of war and their effects. The goal of international humanitarian law is to limit the effects of war on people and property and to protect particularly vulnerable persons and civilians (Beckman & Butte, 2012). Incidentally, States have always been limited in the ways in which they conduct armed conflicts; some of these measures are adherence to national laws and bilateral treaties and the observance of customary rules. However, throughout history these limitations on warfare varied greatly among conflicts and were ultimately dependant on time, place, and the countries involved. Not until the 19th century was there a successful effort to create a set of internationally recognised laws governing the conduct and treatment of persons in warfare. The role of the International Committee of the Red Cross cannot be discountenanced in the development.

Henri Dunant (founder of the International Committee of the Red Cross) in the 1850s made remarkable efforts in helping with the emergence of the first universally applicable codification of international humanitarian law: the Geneva Convention of 1864. Afterwards, international humanitarian law evolved over the course of a century and a half. Specifically, The Hague Conventions of 1899 and 1904 limited the means by which belligerent states could conduct warfare.

With the passage of time though, the conventions had exceeded their usefulness because they could no longer match the brutality with which wars were conducted. World War I (1914–1918) witnessed the first large-scale use of poison, aerial bombardments and capture of prisoners of war. World War II (1939–1945) saw civilians and military personnel killed in equal numbers. The trend meant that the new international treaties on armed conflict were made in response to the many new methods of warfare.

It is important to note that international humanitarian law operates on the basis of the “principle of distinction”. This simply means that all belligerents focus their attacks strictly on military targets. It must be ensured that civilians and civilian objects are safe from the direct consequences of hostilities. Also, and conscious of the facts that the civilian population may not be completely free from military assault, the spirit and letter of international humanitarian law demands that precautions are taken to limit cases of civilian casualties (Beckman & Butte, 2012). In the event of fore-knowledge about collateral damage to civilian objects and huge deaths to the civilian population as compared to

the military, international humanitarian law compels a cancellation or suspension of such operations.

SELF–ASSESSMENT EXERCISE

Explain your understanding of international humanitarian law.

3.2 Types of Armed Conflict

In order to avoid contradictions and to adequately interpret the law, the concept of armed conflict as it pertains to the application of international humanitarian law is defined and clarified by the various conventions and protocols (Solis, 2010). In that context therefore, international humanitarian law categorises armed conflict into two, viz; international armed conflict and conflict of non-international nature. While the four Geneva Conventions of 1949 and 1977 Additional Protocol I concern international armed conflicts, Common Article 3 to the 1949 Geneva Conventions and the 1977 Additional Protocol II concern armed conflicts of a non-international character. Invariably, the four 1949 Geneva Conventions and Protocol I deal extensively with the humanitarian issues raised by such conflicts. The whole body of law on prisoners of war, their status and their treatment is geared to wars between States (Third Convention). The Fourth Convention states inter alia the rights and duties of an occupying power, i.e. a state whose armed forces control part or all of the territory of another state. Protocol I deals exclusively with international armed conflicts.

Internationalised Armed Conflicts
Under Protocol I of 8 June 1977, *wars of national liberation* must also be treated as conflicts of an international character. The relevant part of the article states that such conflict shall be treated as having international character if the people are engaged in a struggle "against colonial domination and foreign occupation and against the racist regimes in the exercise of the right of peoples to self–determination".

A war of national liberation is a conflict in which a people are fighting against a colonial power, in the exercise of its right of self- determination. Whereas the concept of the right of self–determination is today well accepted by the international community, the conclusions to be drawn from that right for the purposes of humanitarian law and, in particular, its application to specific conflict situations are still much debated.

In effect, a single incident involving the armed forces of two states may be sufficient to be considered an international armed conflict. However, the issue of border confrontations involving the members of the armed forces of two states may be difficult to be classified as an international

armed conflict because of the confusion in determining whether or when the threshold is reached.

Non–International Armed Conflicts

In the perception of international humanitarian law, a non–international armed conflict is deemed to have taken place when there is a "protracted armed violence between governmental authorities and organised armed groups or between such groups within a State". In a situation where a non-state armed group engages in a protracted armed violence with a state, and operates from across an international border, this is regarded as a non-international armed conflict, and treated as so.

International and Regional Instruments for Protection

Without a monitoring body like international human rights law, and in order for the rules of international humanitarian law to be alive and respected, there are measures through which adherence to the dictates of international humanitarian law are ensured. The Geneva Conventions and the Additional Protocols require the States party to adopt a number of measures in order to assure compliance with these treaties. Some of these measures have to be taken in peacetime, others in the course of an armed conflict.

3.3 Between International Humanitarian Law and International Human Rights Law

The concept, 'humanitarian' used loosely can be used as a synonym of 'human rights'. However, under international law, there are differences between them. Although both are concerned with the protection of the individual, the two bodies of law apply to different circumstances and possess slightly different objectives. The main distinction between the two bodies of law is that humanitarian law applies to situations of armed conflict, while human rights protect the individual in times of both war and peace. Humanitarian law aims to limit the suffering caused by war by regulating the way in which military operations are conducted (Barka, 2000).

Both systems of law are usually applied in the cases of armed conflicts and war. Compliance with the rules of both systems of law is required during as situation of armed conflict. However, the relationship between both systems of law is complex, primarily because of the cross–cutting nature of their application and the situations they are relevant to. In order to prevent anomalies, international actors have adopted various approaches in dealing with the complex nature of the relationship between international humanitarian law and international human rights law. These approaches are:

1. The *Lex Specialis* Approach

This can be understood on the basis of the identification by the International Court of Justice, of three scenarios that establish the cross–cutting interaction between international humanitarian law and international human rights law. This is explained below:

As regards the relationship between international humanitarian law and human rights law, there are thus three possible solutions: some rights may be exclusively matters of international humanitarian law; others may be exclusively matters of human rights law; yet others may be matters of both these branches of international law. In order to answer the question put to it, the Court will have to take into consideration both these branches of international law, namely human rights law and, as lex specialis, international humanitarian law.

2. The Complementary and Harmonious Approach

In this instance, the position of The Human Rights Committee is useful. In the committee resolution: "the Covenant applies also in situations of armed conflict to which the rules of international humanitarian law are applicable. While, in respect of certain Covenant rights, more specific rules of international humanitarian law may be especially relevant for the purposes of the interpretation of Covenant rights, both spheres of law are complementary, not mutually exclusive".

This approach seeks to explain that both international human rights law and international humanitarian law are two branches of law that have a common objective of protecting persons, and therefore they should be harmonised and interpreted in a way that they complement and reinforce each other. Thus, they can be applied interchangeably such that, some cases, international humanitarian law will specify the current rules and their interpretation, and in other cases it will be international human rights law that would interpret existing rules. This exercise would take into cognisance, the branch of law that is more detailed and more adaptable to each situation.

SELF–ASSESSMENT EXERCISE

Explain some of the basic rules of international humanitarian law

4.0 CONCLUSION

The importance of International Humanitarian Law cannot be overemphasised, considering its importance in managing breaches and violation of the rules of engagement in the course of both international and non-international armed conflicts. The unit has presented in bold relief the major issues pertaining to the management of armed conflict in the modern world.

5.0 SUMMARY

The unit demonstrates the necessity for the management of armed conflict. Specifically, it explains the nature of international humanitarian law and draws the distinctions between it and international human rights law. Furthermore, the unit also presents the various typologies of armed conflicts.

6.0 TUTOR–MARKED ASSIGNMENT

Distinguish between international humanitarian law and international human rights law.

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MODULE 3 EVOLUTION AND DEVELOPMENT OF INTERNATIONAL ORGANISATIONS

INTRODUCTION

The emergence of the international organisations that laid the foundations for international law for the entire cooperating countries of the world is to enhance the economic condition of member States. It was in this period that the World Bank and the IMF were established and from thence forth gradually became an indispensable cog in the wheel of international economic relations to the present period. Their goals may include the attainment and consolidation of peace for the purpose of advancing economic development. This module is made up of five units, the framework upon which we would base our further discussions of the international legal system. The module would explore fundamental and historical issues related to the nature and character of international organisations as major players in international politics.

UNIT 1 HISTORY OF INTERNATIONAL ORGANISATIONS

CONTENTS

1.0 INTRODUCTION

The emergence of the concept of international organisation as an actor in the international system is one of the attempts by States to enhance communication, collaboration and cooperation in the international system. Basically, the idea behind the formation of international

organisations is to ensure the pooling of ideas and resources in order to achieve common goals and objectives. These goals are variously defined by the specific organisations. The goals may include the attainment and consolidation of peace, or for the purpose of advancing economic development. At the end of this unit you should be able to discuss and understand the nexus between peace and security measures as well as economics and social questions in the international system.

2.0 OBJECTIVES

By the end of this unit, you will be able to:

- discuss the development trajectory of the concept of international organisation
- mention the importance of international organisations in the workings of the international system.

3.0 MAIN CONTENT

3.1 History

It is commonly accepted that the emergence of international organisations in its current format is traceable to the creation of the League of Nations, regarded as "the first period of collaboration" (Mangone, 1954). According to Archer (2001), "the accounts of the rise of international organisations rarely begin historically in 1919". At this point though, there was the necessity for collaboration and cooperation among actors in the system, hence the gathering at the Versailles Peace Conference by the triumphant side at the end of the First World–War. This also include participation by various national groups and non–government organisations desirous of a peaceful world, through negotiations and compromises and the elevation of issues of 'low–politics' to international relevance.

Specifically, the gathering was intended as a global coalition emerging from an intergovernmental meeting of heads of state and government focused on confronting the challenges faced by international peace and security. The concern therefore was about coming up with a peace treaty and coordinating and managing inter–state relations, in order to ensure there was no possibility of the re-occurrence of the First World–War with its devastating effects on humanity.

Historically, the whole idea of setting-up international organisations for the purposes of tackling mutual challenges at a global scale did not arise until the Versailles Treaty in 1919 basically because the nature and character of the international system prior to that period did not

permit such seemingly grandiose association of states (Oesterhammed, 2005). The most important point to note in this respect is the fact that the system was Euro-centric in character. Thus, with the exclusion of the rest of the world, and Europe acting as the centre of international relations, frictions, and wars were the essential characteristics of the system. The competition for resources and territories among European powers was rife, and often led to wars. In such a confined environment, it was almost impossible to evolve an efficient system of tackling security challenges. This was not unconnected with the determination of each to protect its own sovereign interest.

Arising from the idea of protecting the sovereign interest, the dominant discourse of the era was the achievement of a unified Christian Europe. Despite the threat posed by the advancing Ottoman Empire, the gradual inability of the Papacy and the Holy Roman Empire meant that it was an impossible task to achieve the religious and political unification of the whole of Europe. The saving grace was a resort to the doctrine of a God–given natural law which supersedes that of humanity, and thus, provided the opportunity for the Christian political class and their subjects to savour the soothing effects of a religious collective.

This was formerly by the gradual extinction of the natural law system as the legitimate and acceptable mechanism for guiding and conducting relations between and among states. In its place, was the emergence of the concept of international law which was founded on the practice of states voluntarily making mutual agreements based either on treaty or on custom. Accordingly, the Treaty of Westphalia demonstrates the immutability of the power of governments as the fundamental source of law, order and protection of rights in the international system.

The crucial turning point was the Peace of Westphalia, 1648, ending the Thirty Years War, which had torn apart late medieval Europe. Despite the benefits of the Treaty of Westphalia, one of which was the emergence of the sovereign state system, it was still impossible to establish networks of international organisations until the twentieth–century. It has been argued though, that the period lacked four main characteristics that would have provided the avenue for the creation of international organisations.

Interestingly, the states operated as independent political units after the Treaty of Westphalia, which encouraged diplomatic activities in the form of trade and travels, and continued till the eighteenth century, but the form of association did not provide sufficient enabling environment for the formation of international organisations. The most prominent form of contact was warfare, which did not allow for the formation of organisations that could ensure peace and security. Research record

shows that there were sixty–seven major wars between the period 1650 and 1800, in which major powers were solidly involved as belligerents. In summary, the systems of the period, whether in Europe or elsewhere was characterised by the concept of 'Us against Them', in which each political unit attempted to exert powers over others. Relationship was almost always belligerent in nature, and warfare was characteristic of the period. This is however not to rule out the fact that some other forms of relationship, especially diplomacy equally took place. The Greek city–states are known to be at the fore–front of the diplomatic relationship of the period, and essentially established the platform upon which modern diplomacy has been built. However, all of these efforts did not lead to the formation of a permanent international organisation that would accommodate the membership of the various political units in the system.

SELF–ASSESSMENT EXERCISE

Describe the character of the international system before the 20th century.

3.2 Peace and Security

The first attempt at creating an association of sovereign states committed to finding solution to the challenges of peace and security in the international system is arguably the Congress of Vienna, which took place between 1814 and 1815. This is described by Archer in the following words:

... the Vienna Congress of 1814–15 codified the rules of diplomacy, thereby establishing an accepted mode of regular peaceful relationships among most European states. This was an important development in one of the key institutions governing interstate relations, turning diplomacy from a rather discredited activity to one that served the international system as well as the individual state.

The stage had been set for the transformation of the international system with both the American Revolution (1776) and the French Revolution (1789). These revolutions brought about changes in the role of the state as a political entity. Prior to the revolutions, the European system operated on the basis of fusion in the relationship between the state and the ruler. The existence of the state was tantamount to the existence of the ruler. Thus, the system was based on the King's parliament, King's court, King's army, King's peace, etc. With the revolutions, the state became the instrument of the popular will and no longer the property, instrument or trust of the Crown.

Expectedly, the impact of the revolutions had reverberating effects on the conditions in European international relations (Geyer, 2001). In the first place, Britain immediately became weakened by the independence of America; not only through the loss of colonial territories, but also human resources to the war of independence. This had negative psychological effects on the perception of the country, by both foes and allies. Secondly, the process of coming together by Austria, Britain, Prussia and Russia to halt Napoleon's match on Europe marked the beginning of the ideology of the balance of power system.

In the final analysis, the congress system was a consultation of the Great Powers that focused on resolving problems as they arose as against making efforts to pre–empt these problems at their regular meetings. It is argued that despite the existence of their various fora provided by the meetings, decisions about war and peace in the period were made in the chanceries of Europe. Though, the congress meeting was an improvement on traditional bilateral diplomacy because it allowed for a gathering of representatives of various governments with various interests– Indeed, it was the beginning of multilateral diplomacy. In the words of Bloy (2013), explains thus:

The Congress of Vienna was seen as the first of a series of Congresses which have been labeled as the "Congress System" although it was never a system. Diplomats felt that they should 'stick together' in peacetime to preserve the peace. It was a "gentlemen's agreement" – verbal, and there was no constitution; it was decided that when and where conflict could lead to international war, a congress would meet to talk it out first.

SELF–ASSESSMENT EXERCISE

Trace the history of the emergence of the United Nations.

3.3 Economic and Social Questions

The creations of permanent international organisations that focus on economic and social questions also have direct links with both the French and American revolutions. In making the state system more responsive to the desires of the mass of the people rather than the rulers, the revolutions created an era of egalitarianism and political liberalism inspired by the Christian ideals of social justice (Agwu, 2009). These revolutions ensured that the ruling class (government) became more involved in the welfare of the citizenry, and indeed, did not limit such involvement to the local environment, but encouraged collaboration across boundaries. According to Archer: "during the nineteenth century, the states of Europe were, of necessity, fashioning new means for co–operation over the issues of peace

and conflict and were being faced with a growing need to co–ordinate action in the socio-economic areas of life".

Coupled with the consequences of the political revolution was the industrial revolution on the creation of international organisations. The industrial revolution positively aided the improvement of communication technology, which in no small measure improved the linkages among states, and indeed, citizens across boundaries. Furthermore, travel time was greatly reduced by the revolution in transport. As a result of these developments, representatives of states and delegates united to produce a common front in respect of the management of public life as it concerns international travels, communication, business relationships, welfare, and all other issues that have international dimensions.

The foremost international organisation that emerged from the series of negotiations that focused on the socio–economic well-being of the citizens of the various states was the International Telegraphic Bureau (1868), which later became the International Telegraphic Union (ITU). This was closely followed by the creation in 1874 of the General Postal Union, which later became the Universal Postal Union. These were closely followed by the creation of the International Bureau of Weights and Measures in 1875, the International Union for the Publication of Customs Tariffs in 1890. With the emergence of the United Nations in 1945, the ranks of international organisations that focus on the socio–economic well–being of humanity became enlarged.

4.0 CONCLUSION

This unit has focused on the history of international organisations. The origin is traced to the Congress of Vienna which took place between 1814 and 1815, and the subsequent institutionalisation of the congress system of managing international peace and security. This effort is the precursor of the United Nations.

5.0 SUMMARY

In summary, we can conclude that the unit captures the development trajectory of international organisations. The importance of international organisations should not be lost on students of international relations, because international organisations have developed over the ages as one of the foremost non–state actors in the international system. The unit traces the development through the bifurcation of the focus into the security conscious and socio–economic conscious international organisations. In the final analysis, we can surmise that the United Nations and all the other forms of security conscious international organisations are an improvement on the conference system, a task which

the League of Nations could not achieve.

6.0 TUTOR–MARKED ASSIGNMENT

What were the factors that prevented the creation of international organisations after the Treaty of Westphalia?

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UNIT 2 APPROACHES TO THE STUDY OF INTERNATIONAL ORGANISATION

CONTENTS

1.0 INTRODUCTION

Like other social–science disciplines, the study of international relations is replete with scientific explanations for interpreting the various interactions that take place in the international system. Following in this tradition, International Relations scholars have based the explanation of the motives, interactions, characteristics and functions of international organisations on the theory of integration. However, there are various approaches to understanding the theory of integration. These approaches provide insight into the workings and *modus operandi* of international organisations. Some of these approaches would be discussed in this unit.

2.0 OBJECTIVES

By the end of this unit, you will be able to:

- explain the various approaches to the study of international organisation
- link the approaches to the empirical workings of international organisation
- distinguish among the various approaches to the study of international organisation.

3.0 MAIN CONTENT

3.1 Functionalist Thesis

The history of Functionalism as an approach to the study of integration can be traced to the issues that arose principally from the experience of the Second World War and a strong concern about the obsolescence of the State as a form of social organisation. Functionalism primarily focuses on "the promotion of common interests and needs shared by states but also by non-state actors in a process of global integration triggered by the erosion of state sovereignty and the increasing weight of knowledge and hence of scientists and experts in the process of policymaking". Accordingly, international integration is, the collective governance and interdependence between states develops its own internal dynamic as states integrate in limited functional, technical, and/or economic areas. International agencies would meet human needs. The benefits rendered by the functional agencies would attract the loyalty of the populations and stimulate their participation and expand the area of integration.

It is assumed that functionalism would provide the enabling environment for development which would in turn lead to "autonomous development" as a consequence of multiplication, expansion, and deepening of functional international organisations. In theory, the process would cascade into the formation of an international government. When this happens, the globe would turn into a federation in which all political units within the system would exercise some form of autonomy, but sovereignty would reside with the global government. This state of affairs is assumed to be capable of ensuring international peace and security. In effect, functionalism stands as the theoretical basis for the establishment and proliferation of international organisations in the twentieth–century. These organisations continue to strive to protect common interests and objectives.

3.2 Neo–Functionalism

As an approach to state integration, neo–functionalism is the process of integrating actors (the various sector in the national economies of consenting states) in the prospects of achieving spill–over effects to further enhance the process of integration. Neo–functionalism believes there is reduction in the value of nationalism, which encourages the political and interest groups within the state to pursue a welfare state objective that can only be achieved through integration.

Though neo–functionalism focuses on regional integration, it nevertheless assumes that the concerned states would initially integrate in functional and economic areas, after which, in quick succession, states

begin to experience increasing rates for more integration in other areas. This is the 'invincible hand' of integration called the spill–over. In essence, the successes and progress experienced in initial integration leads to integration in other areas and issues. Thus, despite the assumption that integration can be resisted, it becomes difficult to stop because of the benefits of cooperation.

The most significant character of neo–functionalism is its non-normative nature; thereby investigating, describing and explaining the process of integration on the basis of the collection and interpretation of empirical data. According to the neo-functionalists, integration is a compulsory and inevitable as against the assumption of a desirable situation proposed by the political elites of member–states. This is because of the interdependent nature of the international system compels states to collaborate and cooperate on matters and issues of mutual interests and concerns. In summary, the neo–functionalists' assumptions on integration are: (i) nationalism is being replaced by functional cooperation across boundaries; (ii) there will always be spill–over effects across various levels of cooperation.

3.3 Rational Choice Institutionalism

This is a theoretical approach to integration, which focuses on the institutions created as a result of actors' penchant for cooperation and collaboration for mutual benefits and the protection of common interests. In coordinating the desire of state actor's in their quest for benefits arising from collaboration, institutions are established to bring the desires to fruition. Rational Choice Institutionalism is therefore a theoretical approach to the study of institutions which presents actors as beneficiaries of institutions.

The origin of the approach is traceable to the study of congressional behaviour in the US of the late 1970s. The approach borrows largely from the analysis of classical economics theories to investigate and explicate the processes through which institutions are created, and how the political actors (decision–makers) that operate within those institutions behave, and subsequently, present the outcome of strategic interactions among the political actors. Arguably, the interpretation of the interactions is usually complex because of the constraints imposed by the rules within the institutional environment, and the motivating influences of the actors. In effect, institutions create the rules that determine the decision-making process. Thus, institutions are "principles, norms, rules, and decision–making procedures around which actors expectations converge in a given issue–area".

The basic assumptions underlining the utility of this theoretical approach are the use of "methodological individualism", which focuses on the behaviour of each actor within the institutional environment. It is also important to know that the behaviour of decision-makers is presumed to be those of the states they represent, in other words, institutionalism assumes that the principal actors are the states. In the final analysis, RCI is applicable on the basis that states are rational, but are "subject however to significant "bounds" on rationality and any prevailing external constraints".

3.4 International Federalism

In applying this theoretical approach to the study of international organisations and institutions, international relations scholars have made efforts to explain that international federalism differs from federalism as a system of governmental structure practised within states. Accordingly, international federalism is explained thus: "federalism on a global level, as a system based on the principle of subsidiary in which policy responsibility is shared between different levels of decision-makers in global institutions to ensure a collective effort for the common concern of peace, security and development while respecting and retaining the legitimate sovereign status of nation–states.

International Federalism is one of voluntary decisions by sovereign states to integrate. In the quest to create and establish cooperative relations aimed at achieving mutual development, security and fostering socio–cultural harmony, nation–states extend hands of fellowship to one-another to establish enduring political unions. In so doing, they create constitutions that provide common legal system and open the possibilities of the integration process in all areas of mutual endeavour.

Basically, international federalism exists on the reality of building and strengthening regional governance structures along federal lines. International federalism is the end–result of a regional integration process, and thus emerge as either a new state, as in the case of the USA and Australia, or a non–state actor, as in the case of the African Union (AU), Organisation of American States (OAS), Association of Southeast Asian Nations (ASEAN), Organisation for Security and Cooperation in Europe (OSCE).

3.5 Inter–governmentalism

Inter–governmentalism is one of the foremost approaches that explain the process of integration. This approach is in contrast to neo–functionalism. This is because of the theory's rejection of the concept of spill–over effect and that supranational organisations are on equal level as national

governments. Inter–governmentalism is premised on the assumption that governments control the level and speed of state integration, as such, any increase in power at supranational level, results from a direct decision by governments. In effect, the integrative actions of national government are consequences of subsisting domestic political and economic issues.

Inter-governmentalism became recognised as a theoretical approach in the wake of European integration in the 1960s. This was a period in which countries in Europe embraced collaboration in major areas, especially the industrial and technical. The cooperation of the period has metamorphosed into the European Union. Inter–governmentalism borrowed largely from the realists' perception of the state as power–seeking and national–interest protection political entity. Through the theoretical prism of inter–governmentalism, a convergence is established between the protection of national interest and the will of states to cooperate as the main motivation for integration.

3.6 Supra–Nationalism

As a theoretical approach, supra nationalism explains the process by which power is held and decisions are taken by independent appointed officials or by representatives elected by the legislatures or people of the member states of a union. The union is a type of multi–national confederation or federation where negotiated power is delegated to an authority by governments of member states. Invariably, member–states governments still have power, but they must share this power with other actors created from the union.

The existence of a supranational union is predominantly based on agreements between sovereign member–states, and to that extent, established by international treaties. Usually, the union is free to pursue its agenda, an agenda which is meant to be in the cumulative interests of member–states, and not that of a single member–state. Sometimes therefore, the positions of a supranational body may not necessarily fall in line with the policy positions of some of the member–states.

The relationship between the supranational union and member-states is also such that the body may only have legal supremacy over member–states in areas and competences that the member–state governments have ceded their powers and authority to the union. For the citizens of member–states; while retaining their national citizenship, they are also conferred with rights and privileges of the citizenship of the supranational union. Finally, the supranational union encourages democracy and equal representation in its activities. In effect, decisions are reached through majority votes, and as it happens in democracies, "the minority has their say, while the majority has their way". Thus, member–states may be

obliged to accept decisions against their will, however, in contrast to a federal arrangement, membership is voluntary, and therefore, states can opt out of the union at their discretion. This form of integration is difficult to come by in the present inter–state system, except for the case of the European Union and the South American Community of Nations.

SELF–ASSESSMENT EXERCISE

What are the benefits of supra-nationalism?

4.0 CONCLUSION

This unit beams light on the scientific explanations for integration. The scientific approaches are useful in explaining the motives for and the character of integration.

5.0 SUMMARY

The unit explains the various levels of interactions that can exist among states from the standpoint of the approaches presented by scholars in the field. This approach explains the minimal level of integration and the highly complex forms.

6.0 TUTOR–MARKED ASSIGNMENT

Differentiate between inter–governmentalism and supra–nationalism.

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UNIT 3 NATURE AND CHARACTER OF INTERNATIONAL ORGANISATIONS

CONTENTS

1.0 INTRODUCTION

This unit would deepen our knowledge about international organisation as a prominent non–state actor in the international system. It provides illumination on the various categories of international organisations. Through the categorization, we are able to get insight into the functions and roles they perform and by extension, they institutional structures and processes that distinguish international organisations from other non–state actors. At the end of this unit you should be able to discuss the nature and character of international system.

2.0 OBJECTIVES

By the end of this unit, you will be able to:

- discuss the various types of international organisations
- explain the functions and roles of international organisations.

3.0 MAIN CONTENT

3.1 Types and Classification

The classification of international organisations can be undertaken through the following standpoints: (i) character and nature; (ii) geographical and functional coverage; (iii) the mandate of the organisation; (iv) the focus of activities as it concerns functions such as economic, political, military social, administrative, judicial or legislative.

SELF–ASSESSMENT EXERCISE

Distinguish between intergovernmental organisations and international nongovernmental organisations.

Inter–Governmental Organisations (IGOs)
In simple terms, this type of international organisation can be described as an association of two or more states that functions through an institution or agency set up to promote, project and carry-out plans in common interest. The organisation is created by treaty for the purposes of pursuing common interest. Based on their treaty origin, IGOs are subject to international law and have the ability to enter into enforceable agreements among themselves or with states.

Essentially, IGOs are platforms for cooperation and collaboration for a more peaceful and secure world, and for deepening, economic and socio–cultural relations. Furthermore, the increasing globalisation and interdependence among state actors encourages deeper cooperation in the areas of health, climate, and communication, among others.

SELF–ASSESSMENT EXERCISE

What are the benefits of joining an IGO?

International Non–Governmental Organisations
International Non–Governmental Organisations (INGOs) are non-state actors; set–up without government representation or intrusion yet covers range of issues and reaches people across territorial boundaries. This type of organisations is focused on resolving specific problems faced by humanity, but do not represent the views of governments nor have profit–motives. In an attempt to understand the meaning of INGO, the World Bank's definition of NGO is apposite. According to the World Bank, NGOs are: private organisations that pursue activities to relieve suffering, promote the interests of the poor, protect the environment, provide basic social services, or undertake community development.

3.2 Functions/Roles of International Organisations

The functions of international organisations (whether intergovernmental organisations or international non–governmental organisations) can be gleaned from the aims and objectives as set-out in the statutes or charter. As mentioned earlier, the functions can be driven by a wide-range of motives, which includes; economic, military, security, political, environmental, health or technical assistance, among others. In some cases, these functions are cross-cutting, especially among regional economic groupings. For instance, the Economic Community of West-

African States' (ECOWAS) mandate is beyond pursuing the economic agenda of the West–African region, but also delves in confronting the security challenges of the sub-region through ECOWAS Monitoring Group (ECOMOG).

3.3 Institutional Structure and Coordination of International Organisations

In general, the organic structure and composition of international organisations are peculiar to each organisation; the structure is usually informed by the functions and the relationship among members. These are usually stated in the constitutions, statutes or charter, as the case may be. However, some of the features are common, either in the case of intergovernmental organisations (IGOs) or international non-governmental organisations (INGOs).

4.0 CONCLUSION

This unit explains the nature and character of international organisations. It interrogates the basic issues that differentiate the various types of international organisations. Furthermore, the various structures and processes are also examined.

5.0 SUMMARY

In summary, the unit highlights the various types, the processes and the functions of the two broad categories of international organisations; the intergovernmental organisations and the international non–governmental organisations. By and large, the state and non–state actor dimensions of the composition appear to be the most fundamental difference.

6.0 TUTOR–MARKED ASSIGNMENT

What are the major distinctions between the African Union and the International Committee of the Red Cross?

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UNIT 4 BRIEF NOTES ON SOME INTERNATIONAL ORGANISATIONS

CONTENTS

1.0 INTRODUCTION

This unit focuses on the empirical peculiarities of specific international organisations. In following the history of the organisations we would be familiar with their functions and roles. The unit would highlight different categories of organisations, from the regional to the global, and also intergovernmental or non-governmental. With excerpts from their web–sites, the students are provided with a compilation of the important history of our select international organisations.

2.0 OBJECTIVES

By the end of this unit, you will be able to:

- discuss the history of specific international organisations
- acquaint yourself with the prevailing conditions of specific international organisations
- state the differences among the various categories of international organisations.

3.0 MAIN CONTENT

3.1 African Union

The African Union is the successor organisation of the erstwhile Organisation of Africa (OAU) that was established by independent

African States in 1963 to protect, promote and project the image of Africa to the rest of the world. This task was meant to be achieved by ensuring the emancipation of African States that were still under colonial control. Furthermore, the organisation had the multiple responsibility of working towards the attainment of peace and security, harmonious socio-cultural relations and the attainment of economic development for all parts of Africa.

In African leaders' quest to better the lot of the peoples of the continent they continually evolved mechanisms and processes that would deepen the organisation's capability for action. These efforts culminated in the establishment of the African Union. In the final analysis, the process of enhancing and expediting action on economic, political and socio–cultural integration and development of the continent was realised through the four Summits that led to the establishment of the African Union in 2002, these are: (i) the Sirte Extraordinary Session (1999) decided to establish an African Union; (ii) the Lome Summit (2000) adopted the Constitutive Act of the Union; (iii) the Lusaka Summit (2001) drew the road map for the implementation of the AU; and (iv) the Durban Summit (2002) launched the AU and convened the 1st Assembly of the Heads of States of the African Union.

SELF–ASSESSMENT EXERCISE

What is the main trust of the AU?

3.2 The European Union

The EU is an evolving international association of independent states that focuses on the economic, political and socio–cultural integration of the European continent. Presently, the Union is composed of twenty–seven member–states. The origin of the EU is traceable to the post Second World–War era, aimed specifically at fostering cooperation among former belligerents. The first step was the formation of economic cooperation; the idea was underscored by the notion that economic ties would discourage conflicts and antagonisms because trade ensures interdependence among partners.

The immediate practical step was the creation of the European Economic Community in 1958 which paraded Belgium, Germany, France, Luxembourg and Netherlands as members. Afterwards, the European Economic and Steel Community was created to further deepen the economic ties and invariably the interdependent relationship among member–states. Subsequently, the association began to transcend its economic beginnings and incorporate all other forms of cooperation spanning major policy issues, and also extending its membership to all of

Europe. Thus, the economic association transformed into a union in 1993 and became the European Union. The EU has grown to become one of the most influential non-state actors. The EU's positions on issues of global concern are usually sought in order to reflect such on-policy decisions and implementations.

3.3 The United Nations Organisation

Since its creation more than five decades ago, the United Nations has remained the foremost international organisation. This is an august body, composed of a massive one hundred and ninety–three member–states. Established in 1945 as a mechanism to prevent a re-occurrence of the magnitude the world experienced in the Second World–War. The Charter is the treaty that established the organisation. However, there is a timeline of events that led to the writing of the Charter and the signing of the treaty. The purpose of the organisation is to maintain international peace and security, though, facilitation of friendly relations among nations, promotion of social progress, better living standards and the protection of fundamental human rights. The main purpose of the organisation can be summarised thus: (i) to keep peace throughout the world; (ii) to develop friendly relations among nations; (iii) to help nations work together to improve the lives of poor people, (iv) to conquer hunger, disease and illiteracy, and to encourage respect for each–other's rights and freedoms; (v) to be a centre for harmonising the actions of nations to achieve these goals.

The organisation continually evolves to meet the challenges of a changing world. In this respect, some of the issues tackled by the organisation on a regular basis include: issues of sustainable development; environment and refugee protection; disaster relief; counter terrorism; disarmament and non–proliferation of weapons; promotion of democracy; human rights; gender equality and the advancement of women; good governance regime; economic and social development; international health; clearing landmines and expanding food production.

3.4 The International Committee of the Red Cross (ICRC)

This organisation was established in 1863 as an international non–governmental organisation to cater for the needs of persons caught in the middle of armed conflict and strife. The organisation pursues its objectives by encouraging the development of International Humanitarian Law and ensuring that the provisions of the law are respected by governments and belligerents. Over the decades, the ICRC has diligently played its role as a neutral intermediary among combatants.

From the experiences gained in providing assistance to vulnerable persons, wounded soldiers and prisoners of war during the First and Second World–Wars, the ICRC became even stronger in the post–1945 period and has continued to shape the debates on International Humanitarian Laws, and all other matters concerning safety and protection of peoples during conflict situations. Lastly, further achievements were recorded in the work of the ICRC in 1977 when two important protocols to the Conventions were adopted by members of the United Nations. These protocols are; conduct of international conflicts and conduct of internal conflicts.

3.5 Medecins Sans Frontieres (MSF)

This organisation is described as "an international, independent, medical humanitarian organisation that delivers emergency aid to people affected by armed conflict, epidemics, natural disasters and exclusion from healthcare". The organisation came into existence in 1971 with the sole aim of providing healthcare and medical assistance to people in dire need of such without considerations for race, gender, religion or political ideology. Deriving its strength on the basis of humanitarian principles, the non–profit, international non-governmental organisation is committed to its avowed neutrality, focuses on needs and works within the limits provided by international humanitarian law. The organisation is equally concerned about stimulating research into causes and prevention of neglected diseases. Furthermore, the organisation fights for the poor to have access to drugs and medications, especially for the treatment of HIV/AIDS.

3.6 Greenpeace

This is an international non–governmental organisation that focuses on the sustenance of the environment for the common good of humanity. The goal of the organisation is to "ensure the ability of the earth to nurture life in all its diversity". The organisation began as a movement against the proliferation of nuclear–weapons and its impact on nature in the late 1960s and early 1970s. Arising from of the impact of the use of nuclear weapons on the environment, a group of environmentalist formed an organisation called "Don't Make a Wave Committee" in 1969 to campaign against the use of nuclear weapons. In 1971, the organisation protested against the testing of nuclear devices in Alaska. The protest was affected by sending a chartered ship called "Phyllis Cormack" from Vancouver, Canada to the United States. The ship was subsequently renamed Greenpeace, and this name was eventually adopted by the organisation to carry out its programme throughout the world. The organisation focuses its campaign on global environment issues. Some of the core areas of interest for Greenpeace are: campaign against global

warming; deforestation; ozone–layer depletion; overfishing; nuclear armaments and commercial whaling.

SELF–ASSESSMENT EXERCISE

What is the main objective of the Greenpeace Movement?

3.7 International Federation for Human Rights

International Federation for Human Rights is an international non-governmental organisation founded in 1922 with the sole aim of protecting human–rights. Accordingly, the mandate of the organisation "is to contribute to the respect of all the rights defined in the Universal Declaration of Human Rights". In this respect, the organisation is active in: (i) efforts towards the protection of victims and vulnerable peoples; (ii) prevention of human–rights violations and; (iii) campaigning for sanctions for violators.

4.0 CONCLUSION

In this unit, we discussed the conditions of ten existing international organisations, in order to put the various theoretical postulations in proper perspectives. We focused on both international governmental organisations and international non-governmental organisations.

5.0 SUMMARY

In summary, the unit examines real–life conditions. The first set of international organisations examined is the intergovernmental organisations, while the rest of the units examined the international non–governmental organisations. Similarly, and attempt is made to focus on organisations from each of the continent, and also on the foremost international organisation. In the final analysis, it is discovered that, the structural processes and procedures of the IGOs are similar irrespective of the location of the organisation. This is equally true of the INGOs.

6.0 TUTOR–MARKED ASSIGNMENT

Distinguish between the focus of the International Committee of the Red Cross and the African Union.

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UNIT 5 INTERNATIONAL ORGANISATIONS WITHIN THE CONTEXT OF INTERNATIONAL LAW

CONTENTS

1.0 INTRODUCTION

As subjects of international law, international organisations are endowed with rights and compelled to have obligations in international law. Furthermore, the fact that they are legal entities and personalities and they also deal within legal entities and personalities, their internal and external conducts become subjects of legal scrutiny. In effect, international organisations, whether, inter–governmental organisations or international non–governmental organisations have roles to play within the context of international law. This unit would examine the various role–plays that international organisations can perform within the context of international law.

2.0 OBJECTIVES

At the end of this unit, you would be able to:

- note the value of international organisations within the context of international law
- identify the specific roles played by international organisations within the context of international law.

3.0 MAIN CONTENT

3.1 Executive, Judicial and Legislative Processes of International Organisations

In similarity to the role of constitutional law which controls and determines the rights, powers, functions and duties of the State, the

legal processes of international organisations are also conditioned by international constitutional law which spell out the details of the roles, functions and duties of international organisations to the international community, irrespective of each organisation's reach; whether global or regional, and in spite of their stated objectives, whether, economic, political or military.

It is significant to appreciate that the underlining principles for establishing international organisations is that the organisations represent some kind of instrumentality through which visions are associated in a common purpose of improving the welfare of peoples. Within the scope of international law, there are ample differences between the constitutional structure of international organisations and the structure of states constitutions especially with regards to executive, legislative and judicial functions. Whereas, the Government wields enormous power over the State, but there is the lack of a central executive organ that parades such power within the international community. Instead, such international executive functions are dispersed among the various international organisations, thereby making it impossible to have a central international body with enormous administrative and executive powers comparable to the powers of the Government of a State.

International organisations however possess separate and different responsibilities; for instance, taking the United Nations as an example, that explains the reasons for the existence of International Labour Organisation, World Health Organisation, etc. Thus, in the United Nations arrangement, the executive powers for conducting the affairs of specific areas of human endeavours lie with the specialised agencies. This samearrangement is replicated in other intergovernmental organisations, such as the African Union, European Union, Association of Southeast Asian Nations, and the Organisation of American States.

Under similar circumstances, the international legislative and judicial functions are performed by a wide–range of international organisations. While the UN General Assembly performs international legislative functions, the International Court of Justice, and other international tribunals conduct global judicial activities. Similarly, one of the organs of the African Union is the African Court on Human and Peoples' Rights which serves as the legal institution for hearing cases under the auspices of the AU.

SELF–ASSESSMENT EXERCISE

Explain the differences between the constitutional structures of international organisations and the structure of states' constitutions.

3.2 Influences of International Organisations on International Law

The influence of international organisations on international law can be viewed from the perspectives of the relations established and maintained by international institutions. These relations usually extend beyond the frontiers of international organisations as subjects of international law, but also connect other subjects of international law, especially States. Hence, the following relationships also have the tendencies of leading to the formation of new rules of international law. It must however be noted that limits are placed on the activities of international organisations to the extent stated in the provisions of their constitutional powers. This means that it is only the functions within the express terms of an organisation's constitution that the organisation can effectively undertake under international law.

The question of whether international organisations possess legal personality under international law or municipal law becomes pertinent. The international legal personality of international organisations is assured if we take our cue from Article 104 of the UN Charter which states that the organisation within the territory of each of its member–states should enjoy "such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes". On the other extreme, there is no finality on the recognition of international organisations under municipal law, as such, while States have been known to grant or withhold the privilege of legal personality as dictated by their municipal law, the constitutions of most international organisations are said to compel member–states to recognise them as personalities under municipal law. In the absence of a world legislature, international organisations continue to establish legislative arms which further enhances their status as subjects of international law because the outcome of the various conventions of the legislative arms form part of the body of rules of international law. The African Union prides itself with the establishment of the Pan-African Parliament, which seats at the core of the legislative duties of the organisation. Find below, excerpts from the Pan–African Parliament:

The permanent seat of the Parliamentary Parliament (PAP) is in Midrand, Johannesburg, and Republic of South Africa. PAP was inaugurated on 18 March 2004. The establishment of PAP was inspired by a vision to provide a common platform for African peoples and their grass-roots organisations to be more involved in discussions and decision–making on the problems and challenges facing the continent. The ultimate aim of PAP is to evolve into an institution with full legislative powers, whose Members are elected by universal adult suffrage. At present it exercises advisory and consultative powers. PAP currently has 230 Members.

In the case of the United Nations, the absence of a world legislature is replaced by the powers vested on the General Assembly, the Economic and Social Council and the International Law Commission to promote the preparation of Conventions. The UN Charter states the powers and functions of the General Assembly thus: "the General Assembly (GA) is the main deliberative organ of the UN. Decisions on important questions, such as those on peace and security, admission of new members and budgetary matters, require a two–thirds majority. Decisions on other questions are by simple majority".

Similarly, the function of ECOSOC is mainly to generate ideas on establishing appropriate mechanisms for establishing relevant rules of international law. The UN Charter explicitly states: "the Economic and Social Council (ECOSOC), established by the UN Charter, is the principal organ to coordinate the economic, social and related work of the United Nations and the specialised agencies and institutions". However, none of the contents of the Charter is more explicit or befitting than that relating to the International Law Commission.

In furtherance of the role played by international organisations in the processes of international law, we shall also look at this subject from the role of treaty relations. It is incumbent upon international organisations to make proviso for treaty–making functions in their constitutions, because of its importance to the performance of their functions. There is a significant rise in the number of international organisations that have entered into treaties with States and other subjects of international law. While the ability to perform this exercise does not relegate the status of State as the primary subject of international law, it only serves to emphasise the importance of other political entities in establishing the rules of international law.

SELF–ASSESSMENT EXERCISE

Describe the influences of international organisations on international law.

4.0 CONCLUSION

This unit serves to re–emphasise the somewhat symbiotic relationship that exists between international organisations and international law. Basically, international organisations are subjects of international law, but they also reinforce the effectiveness of international law by being creations of treaties, and also through their constitutional provisions, charters of statutes.

5.0 SUMMARY

As the last unit of the module, the unit focused on the relationship between international organisations and international law by explaining the roles that international organisations play in the making of international law. Specifically, the unit explains the international law dimension in the executive, judicial and legislative processes of international organisations. Secondly, it also explains the basic influences of international organisations on the rules of international law.

6.0 TUTOR–MARKED ASSIGNMENT

Critically discuss how the legal processes of international organisations affect international law.

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MODULE 4 INTERNATIONAL CO–OPERATIVE APPROACHES TO ECONOMIC, SOCIAL AND CULTURAL DEVELOPMENT

INTRODUCTION

Development is a perceptual concept which relates to how man is able to utilise abundant human and materials resources in his environment to satisfy his physiological, affectionate and mental needs. And like a ball it has many sides from which individuals and scholars can rightly or wrongly assume that a human society is developing or not. However, there have been developed over the years some indices of development. These indices range from elements of political, economic, cultural, educational, physical and social progress. This module will enable students to analyse the theory and practice of development in objective and critical manner. It will promote an understanding of the diversity and complexity of interactions amongst political, economic and social factors involved in development.

UNIT 1 CONCEPT, THEORIES AND APPROACHES OF INTERNATIONAL ECONOMIC DEVELOPMENT

CONTENTS

1.0 INTRODUCTION

Hitherto we have dealt with international law and organisations from the prisms of international efforts in promoting peace and mutual relationship, preventing of feuds and resolving unavoidable conflicts amongst the nations of the world at the political level. In the unit we shall again discuss some organisations already mentioned in the preceding chapters with emphasis on their economic roles and attempt to focus on new ones from the angle of legal and cultural initiatives undertaken by them. These are initiatives geared towards ensuring global understanding of which if lacking international relations will be a mirage. This unit presents the main social scientific steps which have underpinned international development.

2.0 OBJECTIVES

By the end of this unit, you will be able to:

- explain and identify some theories of development
- highlight reasons for global cooperation for development
- differentiate between internationalists and integrationists approaches to global development.

3.0 MAIN CONTENT

3.1 Concept of Development

Njoku (2008:7) opines that development means the general and continuous improvement of man's quality of life here on earth physically, mentally, spiritually etc. According to him physical development which is mostly noticeable in any society includes the improvement of the quantity and quality of man's nourishment, clothing, shelter and general environment for which economic, scientific and technological advancements are indispensable. Mental indices entail human intellectual and skill-based properties while spiritual entails better understanding and improvement of man's relationship with the rest of nature and humanity.

Development viewed from another angle may be measured from social change which has taken place within a period of time and which has enhanced man's access to better living condition. This change may be economic during which the wealth, income and purchasing power of a society markedly increased. From the political sphere it may reveal some elements of liberation of the human mind, increased political participation and improved ideological orientation. Development thus encompasses all facets of human life and it is described so when the changes are positive and progressive in ways that are beneficial to human existence.

Development has also been defined as the systematic use of scientific objectives and requirements relating to better utilisation of man's environment for his needs. Development is also defined as the process of economic and social transformation that is based on complex cultural and environmental factors and their interactions. Western–filter perspective sees development at an orderly change towards realisation of capitalist economic and western democratic political structure while it describes under–development as a condition which portrays persistence of internal factors of pre–capitalist structure. This perspective is narrow as it sees development as an exclusive preserve of western dictated model.

International development seeks to proffer and implement long term solutions to problems of underdevelopment by helping countries create necessary capacity needed to harness and engage sustainable programmes to solve their problems. Thus, development has taken place when it has engaged the unique cultural, political and geographical features of a society in solving its perceived underdevelopment. International development on its very meaning is geared towards colonies that gained independence and considered under–developed. It is envisioned that the governance of the newly independent states should be constructed so that inhabitants enjoy freedom from poverty and hunger which are indices of under–development.

What is then underdevelopment?
Under–development simply means a condition or a process characterised by deterioration or even stagnation in the quality of life of man as a result of setbacks in the economic, social, political, technological and cultural progress of a given society. Under-development results from failure of man to harness abundant human and material resources within and outside his reach to better his lots. It is a condition of perpetual want, lack and insufficiency. Therefore, to say that development has taken place in a society some features must be noticeable. Development features can be summarised thus: something new or more advanced is produced; stronger milieu for human existence is perceptible; changes affect the society in a continuing situation; changes are not short-lived solution to a problem, they are sustainable; development engages both human capabilities and materials resources; development situation is not static or complacent with any situation and; it is institutionally propelled.

3.2 Theories of Development

A theory is a statement of an idea or belief about something arrived at through assumption and in some cases a set of facts, propositions, or principles analysed in their relations to one another and used, especially in science, to explain phenomena (Encarta, 2004). Thus, for any theory to be useful in academic discourse and practical life situation, it must

explain or suggest ways of explaining why a subject has certain features. There are many theories in the field of development as a general discipline and international development for specific applications. We will attempt to deal with some of them in relation to economic and social development as they are useful in international relations, laws, organisations and integration.

Constructivist Theory

The constructivists posit that the international system exists when states conscious of certain common interests, conceive themselves to be bound by a common set of values in their relations with one another, and share in the working of common institutions (Barka, 2000: 83). Constructivists are also of the view that rules of international law and relations are inspired by the social (gregarious) nature of man; his material and moral environments. Thus, in bring about development man's social environment is central and crucial. They believe that international system is sustained largely by social relationships which are mutually beneficial and reinforcing. They submit that national interest is seen to be socially determined and best served when driven by shared understanding and an expectation of co-incidence of interests with other nations.

The Realist Theory and Games Theory

Theory, the realists indigenises the formulation of national interests such that interests change as a result of interaction. The argument is that no nation should have unbent interests whose consequences may be damaging to the global community. Thus, contact with other nations of the world naturally requires adjustment of interests to accommodate other nation's interests and this could only be achieved through diplomatic relations and political maneuvering

System Theory

This theory simply states that the interest of the state is affected by its membership of international organisations. Like in international law where being a signatory to a convention, treaty or agreement binds one to its observance, membership of international social and economic organisations, binds one to the observance of rules, customs and agreements of such organisations. It is posited that international organisations will help in achieving common standards of development goals, practices, rules and prohibitions in a way that a nation's development agenda will not endanger the entire human species.

The Western–Filter Perspective

It is variously called the bourgeois school, the conventional theoretical school or orthodox school of thought. It comprises evolutionary, structural– functionalist, modernisation and liberal theories. It is based on social scientific concern with the problem of order. Development is

conceived as an orderly progression of society from an original state to some desired destination usually pre-determined. The determined destination is the Western Model already possessed by the great economies. It requires casting aside the yoke of tradition and assuming western values and attitudes and by so doing transforming the indigenous structures like those obtainable in the West (Njoku, 2008:33).

The Liberal Theory

The liberal theory is driven by global economic interests. A liberal theorist, Lasaki, for example, seeks for a formula which can remodel the liberal state in such a way as to bring about the intended socio-economic changes in a peaceful way. Although the theories so far discussed are useful in painting scenarios in international economic and social development, no single theory is sufficient to explain in practical terms operations of the international, continental or regional organisations for economic and social development that will be discussed later in this unit.

SELF–ASSESSMENT EXERCISE

Examine the relevance of four theories to global economic development.

3.3 Internationalist and Integrationist Approaches to Global Economic Development

Hitherto, we have dealt with theories of development in general terms. In this sub-section we are going to look into two major perspectives in global economic relations among nations of the world. These are the internationalist and the integrationist. These two schools have informed formation of economic organisations either at international or regional levels and also help in shaping their functions.

Internationalist Approach to Global Economic Development

Internationalists are scholars and practitioners who believe in achieving global economic development through multilateralism or succinctly put through multilateral relationships among nations of the world. They insist that world leadership is not held by a single individual country. It is argued that some formal and informal interdependence between countries with some limited supranational power given to international organisations controlled by those nations via intergovernmental treaties and institutions are necessary. However, they argue that most power resides with the national governments. Thus, the establishment of international economic organisations is to ensure adequate co–ordination of global economic activities in away to ensure equity and fair–play in inter–governmental relations.

Internationalism is by nature opposed to ultra-nationalism, jingoism realism and national chauvinism. Internationalism teaches that the people of all nations have more in common than they do differences, and thus that nations should treat each other as equals. Internationalism is not necessarily anti–nationalism, as in the people's republic of China and Stalinist countries. In the 21st century, internationalism is most commonly expressed as an appreciation for the diverse cultures in the world, and a desire for world peace. People with this view believe in not only being citizens of their respective countries, but of being citizens of the world. Internationalists feel obliged to assist the world through leadership and charity. Contributors to the current version of internationalism include Albert Einstein, who believed in a world government, and classified the follies of nationalism as an infantile sickness.

International Organisations and Internationalism

For both inter–governmental organisations and international non–governmental organisations to emerge, nations and peoples have to be strongly aware that they share certain interests and objectives across national boundaries and they could best solve their many problems by pooling their resources and effecting trans–national cooperation, rather than through individual countries' unilateral efforts. Such global consciousness is termed internationalism i.e. the idea that nations and peoples should cooperate instead of pre–occupying themselves with their respective national interests or pursuing uncoordinated approaches to promote them. Internationalists also advocate the presence of an international organisation, such as the United Nations, and often support a stronger form of a world government.

Integrationist Approach to Global Economic Development

It is argued that less developed countries should go beyond greater trade with one another and move in the direction of economic integration. Economic integration occurs whenever a group of nations on the same region join together to form an economic union or regional trading bloc by raising a common tariff wall against the products of non–member countries while freeing internal trade among members. The practice also involves all attributes of a custom Union (common external tariffs and free internal trade) plus the free movement of labour and capital among the partner states. Economic integration among countries at regional level provides the opportunity for industries that have not yet been established as well as for those that have to take advantage of economies of large scale production to have expanded markets. It prevents duplication of industries which results in wasted scarce resources. Consumers also get products to buy at a reduced rate. It creates economic condition for accelerating joint development efforts within these regions. It can also provide buffer against negative effects of globalisation while still

permitting the dynamic benefits of intra-union specialisation and greater equality among members.

4.0 CONCLUSION

In this unit we have presented development as a systematic change in the utilisation of human and material resources which improves the quality of life of a people in any given society. It is also presented as a condition of progress which positively brings better or enhanced living standards to humans. Although scholars have defined development in different ways, we have come to the conclusion that development is holistic; touching and making man to enjoy a better relationship with his social, economic and political environment. International development which is the thrust of this module is seen in this unit to be concerned with enhanced quality of life for humans irrespective of their place of birth, station in life, race or colour. Thus, throughout human history efforts have been made to institutionalise bodies, organisations and committees to propel development in all the nooks and crannies of the universe. Efforts to make the under–developed and the developing countries catch–up with the developed economics is on–going as development is perceived globally as a major key to world peace.

5.0 SUMMARY

This unit introduced the concept of development in its general form and in its particularistic use in the realm of international politics and international relations. In this unit we have learnt the different meanings of development as propounded by scholars. They all agree that development enhances man's quality of life. As an antithesis to development, we have also briefly captured the meaning of under–development as a condition of retrogression and incapacitation to utilise both natural and human resources to better human lots. In addition, we have dealt with the concerns of international development as an all–embracing phenomenon to cater for global interests rather than national or individual interests. This concern led us to the examination of different theories of development, features of development as well as facets of development in the economic, social and environmental areas. Internationalist's and integrationist's thoughts have been seen as premises for the establishment of global, continental and regional economic organisations which represent human co–operative approaches to social, economic and political development. The organisations are established to wrest humans from hunger, poverty, want and deprivation.

6.0 TUTOR-MARKED ASSIGNMENT

Identify and discuss four general theories of development

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UNIT 2 GLOBAL ECONOMIC DEVELOPMENT INITIATIVES IN THE 20TH AND 21STCENTURIES

CONTENTS

1.0 INTRODUCTION

Human quest for development is as old as man. From the Stone Age to the stage of technological advancement it has been the concern of man to better his living condition by exploring and exploiting his environment. Whatever is achieved in development has come through conscious efforts of humans and they span centuries. However, in this unit we want to concern ourselves with international development efforts from the late 19th century till date. It will thus be revealed in this unit that the movement for economic development is from exploration to exploitation; from nationalism to internationalism, from liberalisation to globalisation and more recently from individualism to co–cooperativeness.

2.0 OBJECTIVES

At the conclusion of this unit, learners should be able to:

- discuss the history of international development initiatives
- define and explain some concepts in global economic practice
- highlight United Nations role in bring about development in the global community.

3.0 MAIN CONTENT

3.1 Brief History of International Development Initiatives

Historically, global concern for international development may be focused from attempts at different stages at globalising world economy which are traceable to different historical epochs. These include: Berlin

Conference of 1884/1885 which led to the partitioning of Africa among European powers; World Economic Conference of May, 1927 which recommended a general reduction in tariff, adoption of non–discriminatory policy and elimination of quantitative restriction; Establishment of Bretton Word Institution (International Bank for Reconstruction and Development and International Monetary Fund) pioneered by the United States in 1944. The institutions core philosophic assumptions include private enterprise, multilateralism, Industrial and agricultural development of world economy by Western experts. They also exercised the right to issue world currency. Thus, at this stage and till date dollarisation of world monetary policy was at the centre stage of foreign exchange; Establishment of neo–colonial system runs by transnational corporation (INTCS). This era further entrenched the hegemony of United States of America after the 2nd World War and fall of colonialism. The period also witnessed the fall of Britain and other European powers in global economic dominance.

Although international relations and international trade have existed for many hundreds of years, the idea of international development came up after the Second World War. In the early part of the 20th century concepts used to describe economic relations in the global community included: political and economic liberalism and the significance of 'free markets'; social evolution in extremely hierarchised environment; Marxist critiques of class and imperialism; anti–colonial take on cultural differences and national self–determination Post-World War II–The second half of the 20th century has been called the era of development and it was said to have begun on January 20, 1949 when Harry S. Truman made his inaugural address. Features of the era included among others. The need for reconstruction in the immediate aftermath of World War II; the evolution of 'colonialism 'colonisation' into globalisation and the establishment of new free trade policies between the so called 'developed' and 'underdeveloped' nations; the start of the cold war and the desire of the United States and its allies to prevent the Third World from drifting towards communism; launching of the Marshall plan in the 1950s in the form of modernisation; theory espoused by Walt Restow and other American economists.

An Overview of Some Economic Practices over the Years Colonialism
Colonialism is the establishment, exploitation, maintenance, acquisition and expansion of colonies in one territory by people from another territory. It is a set of unequal relationships between the colonial power and the colonist and between the colonies and the indigenous people. Though colonialism was a political practice of subjugating a people to external rule it had elements of economic practice which created a periphery capitalist economy. This is often termed as exploitation colonialism as economic practice associated with colonialism promoted a

class of comprador bourgeoisie–chosen middle class professionals, bureaucrats and merchants (to serve as intermediaries between foreign interests and indigenous polity) and economy and power relations that ensured domination of the colonised peoples' economy to international a capitalism (Gravin, 1980: 34–37). The period of colonialism spread between 1500s to the mid-1900s. It was a decision to strengthen the home economy of the colonists at the expense of the indigenous colonised people.

Neo–colonialism

Neo–colonialism refers to the theory that former or existing economic relationship created by former colonial powers were or are used to maintain control of the former colonies which results in dependencies even after independence is gained. In a nutshell, neo–colonialism is the practice of using capitalism, business globalisation and cultural imperialism to influence a country's domestic life style. Neo–colonialism was coined by former Ghanaian President, Kwame Nkrumah, to describe the socio–economic and political control that can be exercised economically, linguistically, and culturally by former colonial masters over the newly independent states. It was the domination praxis (social, economic, cultural) of the internal affairs of the developing countries. Colonial powers were seen to continue to apply existing and past international economic arrangements with their former colonies and continue to maintain control over their domestic economic affairs. It entailed disproportionate involvement of modern capitalists business in the economy of developing countries, whereby multinational corporations continue to exploit the natural resources of the former colony. Neo–colonialism used foreign capital to exploit the resources of a state rather than use it for the development of the less developed part of the world. Neo–colonialism increased the gap between the rich and the poor countries of the world because investment was usually directed at developing the centre of the world (the West) at the expense of the periphery (the third world).

Liberalism

Liberalism is a belief in the value of social and political change in order to achieve progress. Economic liberalism is the ideological belief in organising the economy on individualist lines in a way that the greatest possible number of economic decisions is made by individuals and not by collective institutions or organisations. Market economy and private property are dominant features of economic liberation. It promotes free market economy whereby government regulations and interventions are minimally tolerated in order to remove private monopoly.

Adam Smith who promoted economic liberalism opined that if everyone is left to their own economic devices instead of being controlled by the

state then the result would be harmonious and more equal society of ever–increasing prosperity. Economic liberalism is supportive of government activity to promote competitive markets and social welfare programmes to address social inequalities that result from free–market economy. It is envisaged that in an economic liberal state there will be equality of opportunity to the extent that individuals can become socially mobile. Thus, the poor has the opportunity of becoming rich if he is able to grapple the opportunity at his disposal to better his lots.

Globalisation

Globalisation has been described as the process of international integration arising from the interchange of world views, products, ideas, and other aspects of culture. It is a process that has generated further interdependence of economic activities globally. It is an international network of social and economic systems. Souveus (2002) defines globalisation as the compression of the world and the intensification of the consciousness of the world as a whole.

In 2000 international Monetary Fund (IMF) identified four basic aspects of globalisation as trade and transactions, capital and investment movement, migration and movement of people and the dissemination of knowledge. Thus, globalisation relates to a multilateral political world and to the increase of cultural objects and markets between countries. The term implies transformation from seclusion to inclusion of all peoples of the world in development platform which emphasises the interests of humans in general. It has also facilitated international trade in goods and services across borders and to destinations hitherto difficult to reach. Trade, foreign direct investment, portfolio investment and income fluidity are major features of globalisation. Globalisation has lent a helping hand in the search for commitment to globally shared interests through its deteritorialisation of the world (Agwu, 2009: 479). Globalisation and international integration have played very crucial roles in the pursuit of internationally shared interests through subtle diplomacy.

SELF–ASSESSMENT EXERCISE

Endeavour to trace the historic experiences of colonised peoples of the world in the 19th and 20th centuries.

3.2 United Nations Roles in Driving Global Economic Development

Many of the economic development activities in the global community have been significantly affected by conscious efforts of the United Nations in the last 68 years. United Nations has greatly been responsible for shaping and directing transformational agenda that have affected

better living standard for the homo-sapiens worldwide. The body as the global centre for conscious–building has set priorities and goals for international co–operation to assist countries in their development efforts and to foster a conducive and supportive global economic environment (UN 1998). A series of International Development Decades have been set by the United Nations from 1961.

Apart from setting development decades as shown above, the United Nations has set up other agenda like the Industrial Development for Africa, development and promotion of the human rights, Beijing Forum on Gender Equality and the Millennium Development goals. The United Nations system has also been promoting economic development through policy formulation, advice for governments on their development plans and programmes, setting of international norms and standards and by mobilising funds to carry out programmes of development worldwide. Through its offices, agencies, programmes and its family of specialised agencies the United Nations has touched on the economic development of nations. For example, the Economic and Social Council (ECOSOC) of the United Nations is saddled with the responsibility of co–coordinating her economic and social work. The United Nations has other bodies like the Department of Economic and Social Affairs (DESA), Official Development Assistance and United Nations Development Programme. Other affiliates are the World Bank, International Monetary Fund, International Development Association and International Finance Corporation (IFC).

Also, various agencies of the United Nations system monitor and assess developments. These include Food and Agricultural Organisation, United Nations Development Programme and United Nations Industrial Development Organisation (UNIDO) that assist developing countries governments in attracting investments and securing grants and loans for development projects. In the same vein, the United Nations Conference on Trade and Development (UNCTAD) assists government, government agencies as well as non-governmental Organisations to improve knowledge of trend in foreign direct investment, trade, technology and development. Information is also disseminated to policy–makers and investors on global trend in technology and innovative practices. Thus investment promotion and technology diffusion in developing counties have been progressive through the agencies of the UN. International Trade Centre UNCTAD/WTO (ITC) works with developing countries and countries in transition to set up trade promotion programmes, to expand their exports and improve their import operations (UN 1998: 142). International Fund for Agricultural Development (IFAD) finances agricultural development projects that alleviate rural poverty and improve nutrition in the developing world. International Labour Organisation is concerned with setting and monitoring of international labour Standard in

the workplace. Likewise, the International Telecommunication Union (ITU) has been helpful in harmonisation of national telecommunication policies. By and large, the United Nations is striving daily to fulfill its mandate of co–operation in solving international economic, social, cultural and humanitarian problems, and in promoting respect for human rights and fundamental freedoms.

3.3 Some International Economic Development Organisations

International Organisations are transnational organisations created by two or more sovereign states. However, for the purpose of this unit, international economic development organisations will be limited to only international bodies whose formation is multilateral and whose spheres of influence is universal.

United Nations Conference on Trade and Development (UNCTAD)
United Nations Conference on Trade and Development was established in 1964 as a permanent intergovernmental body. It is the principal organ of the United Nations General Assembly dealing with trade, investment, and development issues. It has its headquarters in Geneva, Switzerland. Its aim is to "maximise" the trade and investment and development opportunities of developing countries and assist them in their efforts to integrate into the world economy on an equitable basis. In the 1970s and 1980s, UNCTAD was closely associated with the idea of a New International Economic Order (NICO).

United Nations Development Programme (UNDP)
The United Nations Development Programme [UNDP] is the United Nations system's largest source of grant funding for development and is the main body coordinating United Nations development assistance. It was established in 1960 and has offices in 177 countries with its headquarters in New York. UNDP's mission is to help countries to develop their own national capacity to build sustainable human development. Development that is both people centred and respects the environment. UNDP activities give top priority to poverty eradication, environmental regeneration, job creation and the advancement of women. It supports and promotes sound governance and market development. It supports rebuilding war torn societies and alleviates sufferings during humanitarian emergencies.

UNDP is central to efforts to create United Nations Houses in many countries to provide common premises and pool facilities for United Nations agencies and programmes in the field. It is also working with the World Bank and United Nations Environment Programme in managing Global Environmental facility. It is also sponsoring fight against HIV/AIDS scourge. UNDP equally supports a wide range of economic

programmes and projects at International and national levels. United Nations Development Programme is credited for being partners with people at all levels of society to help build nations that can withstand crisis, and drive sustainable development. By and large, UNDP advocates for change and connects countries to knowledge, experiences and resources to help people build a better life. As an executive board of the United Nations General Assembly it mobilises voluntary contributions for its activities.

In 2010, UNDP budget was approximately 5 billion USD. The UNDP works internationally to help countries achieve the Millennium Development Goals (MDGS). It provides expert advice, training, and grant support to developing countries. It also publishes annual Human Development Report since 1990 to measure and analyze developmental progress globally. In a nutshell, UNDP links and co–ordinates global and national efforts to achieve the goals and national development priorities lay out by the host countries. Its five developmental challenges are democratic governance, poverty reduction, crisis prevention and recovery, environment and energy and HIV/AIDS prevention and reduction.

The World Bank

The World Bank was established in 1945. The World Bank today has other affiliate institutions: The International Bank for Reconstruction and Development (IBRD) established in 1945; The International Finance Corporation (IFC) established in 1956; the International Development Association (IDA), established in 1960; and the Multilateral Investment Guarantee Agency (MIGA), established in 1988. The World Bank is an international finance institution that provides loans to developing countries for capital programmes. It is owned by 188 members' countries. The task of the World Bank is to reduce poverty around the world by supporting the economies of poor countries with the aim of improving people's living standards. The affiliates of the World Bank provide economic growth by providing repayable loans to finance development projects in more than 100 countries of the world. World Bank also supports projects in the area of sustainable development such as reforestation, pollution control, and land management. It also invests in sanitation, water and agriculture. It has an annual publication which is called World Development Report.

International Monetary Fund (IMF)

IMF was established at the Bretton Woods Conference in 1944. IMF headquarters is in Washington DC, United States but has country offices worldwide. The country offices are responsible for the surveillance of its member's economies and provide policies advice which has helped to improve their economies. Succinctly put, the IMF describes itself as an

organisation of 188 countries, working to foster global monetary co-operation, secure financial stability, facilitate international trade, promote economic growth through high employment and sustainable economic growth, and reduce poverty around the world.

International Fund for Agricultural Development (IFAD)
IFAD has its headquarters in Rome, Italy. The mandate of IFAD is to combat hunger and rural poverty in the low-income food–deficit regions of the world. It is a multilateral financial institution established in 1977, following a decision of the World Food Conference in 1974. It also has the objective of ensuring that poor rural people have better access to and skills and organisation they need to take advantage of: natural resources i.e. access to land, water and conservation practices; improved agricultural technologies and effective production services; a broad range of financial assistance; transparent and competitive markets for agricultural inputs and produce; opportunity for rural farm employment and enterprise development and; local and national Policy and programming processes. Since starting operation in 1978, IFAD has invested US12.0 billion, AM7.5 billion in 860 projects and programmes that have reached some 37 million poor rural people as at 2013. IFAD mobilises resources and funds to improve food production and ensure better nutrition among the poor in the developing countries. It also lends money on highly concessional terms to developing countries. It mobilises funds from external donors for its projects. It gives loans and grants to institutions engaged in food production, research activities and food processing. In summary, IFAD's goal is to empower poor rural women and men in developing countries to achieve higher incomes and improved food securities. It is an advocate of the rural people.

The World Trade Organisation (WTO)
The World Trade Organisation established in 1995 has the mandate of overseeing international trade. It replaced the General Agreement on Tariffs and Trade (GATT). The three main objectives of WTO agreement are: to help trade flow as freely as possible; to achieve further liberalisation gradually through negotiation and; to set up an impartial means of settling trade disputes. In its operation the organisation ensures non-discrimination, free trade competition and has extra provisions for less developed countries. It also reduces protectionism.

Other International Economic Development Organisations are: United Nations Industrial Development Organisation (UNDO); International Atomic Energy Agency (IAEA); World International Property Organisation (WIFO); International Telecommunication Union (ITU); Universal Postal Union (UPU); United Nations Environment Protection (UNEP).

4.0 CONCLUSION

The world has passed through many economic epochs. From exploitation to cooperation the world is becoming a better place for humanity. The United Nations has been instrumental to global economic development in many ways in the 20th and 21st centuries. Through her numerous programmes and agencies, it has lifted the living conditions of millions of people especially in developing countries. Her efforts are ongoing in the pursuit of a better today and a sustainable future.

5.0 SUMMARY

In this unit we have dealt with some important milestones in economic history. We have touched on the evils of colonialism and neo–colonialism as eras of global economic retrogression in developing economies. The turning points are the periods of nationalism, liberalism and globalisation which followed the 2nd World War and the fall of the Berlin wall. More rewarding is the interventions of the United Nations through her agencies and programmes. United Nations has been helpful in widening economic horizons of developing economies. The grassroots people are benefiting from other affiliates of the United Nations.

6.0 TUTOR-MARKED ASSIGNMENT

Discuss the contributions of World Trade Organisation to improved living condition of human.

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UNIT 3 CONTINENTAL INITIATIVES FOR TACKLING DEVELOPMENT ISSUES AND CHALLENGES IN AFRICA

CONTENTS

1.0 INTRODUCTION

Most African countries are said to be underdeveloped. Various reasons have been advanced for which include colonial experience and attendant evils. The experience of colonialism, economic, exploitation and imperialism in Africa, notwithstanding today is now a beacon of growth and economic opportunity. This status is sequel to the liberalization of most African countries' domestic economy after independence. International investors and multi–national companies are flocking into different states of Africa. This sporadic increase in global business patronage of Africa arises from the fact that governments of various countries are working hard to increase infrastructure investment and intra–African trade through multilateral and bilateral relations. These are in form of economic organisations at both continental and regional levels. These bodies articulate development need of Africa and proffer strategic plans to achieve them with assistance from international organisations earlier discussed. Today, efforts are being accelerated through these initiatives to achieve economic, expansion and well moderated globalisation in Africa with guided policies aimed at ensuring human welfare, sustainable development, and eradication of poverty, fair trade and reduction of crippling indebtedness. This unit therefore will attempt to provide the reader with reasons for underdevelopment, especially for the Third World Countries.

2.0 OBJECTIVES

At the end of this unit, should be able to:

- list the causes of underdevelopment in Africa
- discuss the present features and future of African economic Organisations.

3.0 MAIN CONTENT

3.1 Causes of Underdevelopment in Africa

Africa is a continent of abundant human and materials resources; however, these resources remain largely untapped due to her present state of economic development. Most of the nations in Africa are classified as belonging to the developing nation category because hunger, wants, poverty, diseases and illiteracy are still prevalent in most states. In acknowledgment of the prevailing socio–economic inadequacies of Africa, African nation governments have undertaken integration approaches since the last century and have opened their doors to global organisations that are considered useful in actualising the dream of becoming a developed continent.

Under–development in Africa is a subject of global discourse. Underdevelopment is a state of inability of a nation to use to their full socio-economic potential resources at her disposal with a result that there is a wide disparity between the rich and the poor and unhealthy balance of trade (Frank, 2005). Thus, the term underdevelopment refers to the situation of a country or region usually characterised by inadequate development indices which include low level of economic productivity and technological sophistication.

Many reasons have been adduced for underdevelopment in Africa by different scholars. However, we intend to adopt the ones highlighted by Norway's Ministry of Foreign Affairs. First, it is noted that geographically and demographic conditions of Africa account for most crises. The agricultural revolution and the use of iron tools came to sub–Saharan Africa later than to other parts of the world with about 1000 years lag. The continent as a whole is said to be inhospitable to agriculture. It is also a home to a number of indigenous diseases that afflict both humans and animals.

Africa's demographic history has been characterised by low density of population in the rural areas and continuous migration from rural to urban settings. There are also geographical obstacles to communication both internally and with the rest of the world. In addition, the Continents

Rivers with their large waterfalls have not provided a navigable route to the interior for development to take place, in contrast to the rivers of Europe and Asia that have been put to use for transportation.

Since independence of most of African states, lack of political stability accounts for many of the development problems in post-colonial Africa. As a result of political instability there is usually policy summersault, lack of accountability, corruption and lack of direction. National endeavours have been hampered by internal conflicts and civil wars, and at worst a form of anarchy, as seen in the Congo, Nigeria, Liberia, Sierra-Leone, Cote de' Voire, Congo, Sudan have all experienced imaginable destruction of human lives due to civil war and internal political crises. Civil wars and internal crises have made ethnicity one of the worst challenges to development in Africa. Ethnicity overrides all other forms of loyalty with a ferocity that defies belief. Thus, people take advantage of tribal instinct as opposed to collective interest in the pursuit of national development agenda.

Slave trade and colonialism also accounted for greater laxity of African continent in development because both phenomena are deep in exploitation both in theory and practice. The cruelties of slave trade and colonialism have left deep scares in the African psyche to the extent that inferiority complex is in imbued in the mind of average Africans. This was a millennium in which African labour played a key role in building up the Atlantic system. African labour contributed immensely to the development of Europe and America in the 19th century. There was also unguided exploitation of African raw materials which were used to develop metropolitan Europe and Americas. Colonialism also left African in the political and economically irrational and dysfunctional states because of imposition of western values that are alien to Africa basil Davidson sum up the state of the affairs in the title of his book titled "The black man's body: Africa and the cause of the nations state".

After independence, state controlled economic with a high level of professionalism took on a particular and unfortunate form in Africa. The state became gate keeper state and only acquired both of their revenue from custom duties, concession to foreign companies, visas, foreign exchange control, and foreign aid. This situation is worsened by contestation for ideological space between west and eastern blocs during the cold war era. African economic shuttled in between capitalism and communism as a result of confusion vision of African leadership.

African leaders' priority as often been to typing political control the flow of the resources, develop personal network and perpetuate themselves in power while abandoning nation building are well–functioning public institution. This has led to 'patrimonial rule' or 'personal rule' whereby

state resources are disposed to perpetuate regimes rather than develop the state. This became an obstacle to the development of modern institution and enterprises. Where these institutions are put in place, political patronage underlines the choice of leadership and the management team. Economic liberalisation and globalisation have led to what scholars termed a new scramble for African that is irrational in economic term. Capital flow, foreign direct investment grants and aids to Africa and remained largely uncoordinated. This lack of coordination had led to sharp practices and corruption which are inimical to economics progress. This has also resulted in huge external debt and unbalance of trade in African states fluctuation on the prizes of raw materials and surge in oil prices after 1973 have led to unguided spending spree of African leaders. Consequences of these are artificially high exchange rate, unbridled printing of money and over optimistic loans from abroad. Thus, social frustration and weak government structure further prevent people from taking advantage of the globalised economic environment. The growth of fundamentalism, terrorism, illegal immigration, internationalism and trans-border crime and spread of epidemic diseases institute major hindrances to development in Africa.

3.2 Global Interventions in African Development: Roles of Foreign Continental Economic Organisations

International organisations had earlier been described as transnational organisations whose membership includes two or more nations or sovereign states. In such organisation the interests and policies of member states are prescribed and guided by their representatives. Ordinarily, it is expected that they will operate within the geographical confines of member states, however, nowadays in order to spread the culture, political and economic ideologies of member states they operate in other nations especially in the third world. Although some scholars see their presence in Africa as a form of imperialism, yet the level of development of African states could not make governments reject their presence in their states. In this respect, the roles of such organisations are equated to that of international governmental organisations (IGO's) offering support in the area of global development. For charity let us consider the roles of three of the Continental Economic Organisations in Africa.

European Union

The European Union (EU) is an economic and political union of 28 member states that are located primarily in Europe. Members of the European Union are Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherland, Poland, Romania, Slovenia, Spain, Sweden and United Kingdom. Its political headquarter is in Brussel. It

was established with the Treaty of Paris in 1952, Treaty of Rome, 1958, Merger Treaty 1967, Treaty of Maastukht, 1993 and Lisbon treaty, 009. Members of the union have aggregated per capital income of $34,023 which makes them rich economies of the world. The common currency of members' state is Euro (EUK) used mostly for trade in the Euro zone though individual state has its own currency.

European Union operates system of super national independent institution and intergovernmental negotiated decision by the member states. Institution of EU include European Union's the court of Justice of the European Union, he European Central Bank, the court of Auditors and the European Parliament. The creation of single market and the corresponding increase in trade as well as general economic activity transformed EU into a major trading power across the globe. It is sustaining economic growth by investing in transport, energy and research while also seeking to minimise the environmental impact of further economic development in different countries of the world. EU is thus a responsible institution in the global community by working for a healthy and sustainable environment for the future generation.

European Union activities in Africa have tremendous impacts on the socio-economic lives of the people. The Africa-EU strategic partnership was established in 2007 at the second Africa–EU summit as an overarching political relationship though EU activities predate this partnership. The strategy for Africa is the European Union's response to the challenge of getting Africa back on the track of international development. EU activities include management of the environment, lending technical support, issuing loans and grants to needy African countries. They have offices in some African states. Also offer peace facility to Africa by getting involved in negotiating peaceful settlement of conflicts, getting involved in demobilisation, disarmament and reintegration of ex–combatants.

European Union's achievements in Africa include finding solutions to everyday problems battling against global forces to maintain European Union member states economic presence in Africa, ensure equilibrium and generate jobs. It has also helped to restore hope to people suffering natural and man induced disasters in Liberia, Sierra Leone, Congo, Sudan, Nigeria and others.

Organisation of American States (OAS)

Organisation of America states promotes social and economic development in the western hemisphere through co-operation OAS came into being in 1948 with the signing in Cogota, Colombia, of the Charter of the organisation. Its logo is democracy for peace, security and development. It thus, promotes economic, military and cultural co–

operation among its members. Membership of OAS comprise of America and 20 Latin American nations. As the world oldest regional body it has served as a platform for improving human living conditions not only in the Americas but also in many developing countries. The deepest roots of the Organisation of American states are found in the ideals of Simon Bolivar, the Liberator. Thus, OAS offers scholarships to all peoples of the world including Africans irrespective of race, colour, sex or belief. The Organisation of American states has a council on Foreign Relations which assists developing nations to overcome their domestic economic challenges. The regional offices oversee plan, coordinate IOM activities within Africa.

Arab League

Arab League is a union of Arab-speaking African and Asian. The league of Arab states is what commonly called the Arab League. It is a regional organisation of Arab countries in around North Africans the Horn of Africa, Southeast Asia. It was founded in Cairo on 22nd March, 1945 with six-member Arab League has 22 members as at 2013. The League's main goal is to draw closer the relations between member states and coordinate collaboration between them, to safeguard their independence and sovereignty, and to consider in a general way the affairs and interests of the Arab countries.

Arabic League has played important role in coordinating Arab economic life. Towards the realisation of better economic life for Arabs it has established Arab Telecommunications Union (1953), the Arab Postal Union (1954) and the Arab Development Bank (1959) later known as "Arab "Financial Organisation. The Arab common market was established in 1965 and is open to all Arab League member countries.

The Arab League maintains delegation at the African Union in Addis Ababa, Ethiopia. They also set up Arab Bank for Development in Africa, Arab Fund for Economic Unity, Organisation of Arab Petroleum Exporting countries and many others which have contributed to economic development in Africa by virtue of the fact that some of her members are in the African continent. Many Africans who are not members of the League have also benefited from her largess in terms of scholarship, trade relations and loans. It is widely acknowledged by scholars that Arab unity is central to the creation of a new world order as will the division in the Arab ranks. The Arab League countries are rich in resources, with enormous oil and gas resources in certain member states. Arab League holds investments in non-member African countries running into billions. Also, with phenomenal growth in Telecommunications such companies like Orascom and Etisalat have expanded their frontiers to other African countries. For example, Etisalat is a major player in Nigeria telecommunication industry.

SELF–ASSESSMENT EXERCISE

Reflect on the various ways by which the global community is helping Africa to develop

3.3 African Initiatives for Combating Underdevelopment

African leaders do not fold their arms since gaining independence from white rule. They have been making spirited efforts to come together to confront economic challenges. We shall now consider some of the cooperative economic development bodies that have arisen as a result of these efforts.

The African Union

The African Union is the key actors in political, social and economic integration of Africa. Thus, most of the continental economic organisations in Africa are affiliates of the Union. In fact, organisation of African Unity which later transformed to African Union gave birth to many of these continental economic bodies. Suffice to state that the African Union was born out of the ideology of Pan-Africanism as a tool designed to change the development of the African people. In light of this, Union sees the need to pursue agenda that will result in speedy economic integration of Africa in order to improve the people's well-being.

The Division undertakes various activities and programmes, and has regular publication. The Status of integration on Africa (SIA) is an annual report which contains information on the activities and progress made by each Regional Economic Community (REC). These RECs include ECOWAS, COMESA, ECCTS, SADC CEUSAD, EAC, IGAD and UMA. The division also holds scheduled meetings with Regional Economic Commissions twice yearly to establish a co–ordination mechanism for regional and continental efforts for the development of Africa and ensure multilateral negotiations. In its bid for proper co-ordination, the African Union recognised eight regional economic commissions at the meeting of Heads of state and government on 2nd July, 2006. African Union also has well established divisions under her department of Economic Affairs that take care of Africa Development. These are Economic Integration & Regional Co–operation Division, Economic Policies and Research, Private Sector Development/ Investment and Resources Mobilisation Division and Statistics Division.

4.0 CONCLUSION

The discourse in this unit revealed that Africa is not on her own in her cooperative efforts in tackling her economic challenges. The entire world community is helping Africa through continental economic organisations.

This stems from the realisation of the fact that global economic development is a necessity for peace. African governments have also come together to form economic associations that are galvanising the development process and linking Africa to the global economy as equal players.

5.0 SUMMARY

This unit has identified the state of development in Africa and concluded that it is abysmally poor. Some of the causes of under–development are traced to colonialism, imperialism, lop-sided globalisation, internal wars and crises, bad leadership and cultural attitudes. However, the unit acknowledged global interventions in African plights through multilateral, international and foreign organisations deriving from the fact that global economic development is a precursor to global peace. We have also discussed some worthy African initiatives in integrating Africa economically. These initiatives though have teething problems but are capable of taking Africa to the next level.

6.0 TUTOR-MARKED ASSIGNMENT

Mention and discuss four economic organisations borne out of African initiatives as well as their objectives and achievements.

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UNIT 4 REGIONAL ECONOMIC COMMUNITIES IN AFRICA

CONTENTS

1.0 INTRODUCTION

The new trend in global economic relations is the coming together of countries within a politically acknowledged region to come together to pursue common economic interests to foster development. Africa has five regions of such. These are West Africa, Southern Africa, Eastern Africa, North Africa and Central Africa. However, in economic relations and formation of regional bodies they overlap as we shall see later in this unit.

2.0 OBJECTIVES

By the end of this unit, you will be able to:

- list some regional economic communities in Africa
- discuss the objectives of some regional economic communities in Africa
- examine the achievements and challenges of regional economic Communities in Africa.

3.0 MAIN CONTENT

3.1 Economic Community of West African States (ECOWAS)

ECOWAS is a regional integration Organisation among contiguous states of West Africa. Sixteen West African Countries formed this regional integration body with a treaty signed on May 28, 1975; however, Mauritania withdrew in December 2000. Membership covers Anglophone and Francophone West African states. ECOWAS was

established to promote co–operation and integration in order to create an economic and monetary union for promoting economic growth and development in West Africa. The main objective of ECOWAS is promoting economic growth and development in West Africa. Recently it has also undertaken the objective of ensuring peace in the West African region.

ECOWAS's mission is to promote economic integration across the West African region and for its efforts in achieving this, it is considered as one of the pillars of the African Economic Community. The Organisation is also striving to achieve collective self–sufficient for its member states by creating a single large trading bloc through an economic and trading union. It has also established ECOMOG to serve as peacekeeping force in Liberia, Sierra Leone and Cote D'Ivore in the region. ECOMOG has helped in ensuring peace. Two institutions implementing ECOWAS policies are the ECOWAS Commission and the ECOWAS Bank for Investment and Development formerly known as Fund for Co–operation.

SELF–ASSESSMENT EXERCISE

Critically assess the role of ECOWAS in the formation and implementation of West African economic agenda.

3.2 Southern African Development Community (SADC)

Southern African Development Community is an intergovernmental body set up among sovereign states in the Southern region of Africa. SAAC came into existence in 1980 as SADCC and SAAC in 1992. It is headquartered in Gaborone, Botswana. The working languages are English, French and Portuguese. There 15-member states which are Angola, Botswana, Democratic Republic of Congo, Lesotho, Malawi, Mauritius, Madagascar Mozambique, Namibia, Seychelles, (currently suspended) South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.

3.3 East African Community (EAC)

The vision of East African Economic Community is a prosperous, competitive, secure, stable and politically united East Africa. The mission to widen and deepen economic, political, social and cultural integration in order to improve the quality of life of the people of East Africa through increased competitiveness, value added production, trade and investment. The East African Community is an inter government organisation comprising Republics of Kenya, Uganda, Burundi, Tanzania and Rwanda. It is known as Jumiyau ya Africa ya Mashariki in Swahili its imaya frainca while English is the official language of business. Its motto is one people, one destining. Members of the organisation are all around

the Great Lakes region in Eastern Africa. The EAC is an integral part of the African Economic Community and it is also collaborating with Southern Africa Development Community (SADC) and the common market of Eastern and Southern Africa (OMESA) to establish an expanded free trade area. It is also perceived as a precursor to the establishment of the East African Federation a proposed federation of its five members into a single state. It already established its own common market in 2010 where goods, labour and capital within the region are exchanged freely. Though it aimed at having a common currency by 2010, this has not become a reality 2020. It is most likely that Southern Sudan may become a member in the nearest future.

3.4 Economic Community of Central African States (ECCAS/CEEAC)

Economic Community of Central African states otherwise known as Communaute Economique de Etats ded" Afrique in French was established in 1985. It has its headquarters in Libreville, Gabon. Its working languages are French, Spanish and Portuguese. It is an economic community for the promotion of regional economic cooperation in Central Africa. ECCAS is also a pillar of African Economic Community and has ten-member states which are Angola, Burundi, Cameroon, Central African Republic, DR Congo, Chad, Equatorial Guinea, Gabon, Republic of the Congo and Sao Tome and Pricipe. ECCAS aims include collective autonomy, raising standard of living of its populations and manufacturing economic stability through harmonious co-operation. It was preceded by the Customs and economic Union of Central African (UDEAC from its name in French, Union Boveniere et Economique del Afrique Centrale) in 1964. ECCAS was established in 18th October, 1983 by the UDEAC members, however, it began functioning in 1985.

4.0 CONCLUSION

African states continue to realise their unimpressive level of development and thus continue to make relentless efforts in co–operating, collaborating and integrating with international community and themselves to form formidable economic base for Africa. The target has been the development of culture of competitiveness, common market, common currency and free trade zones to galvanise development. In light of this, many economic communities, monetary unions and free trade zones have been formed. These organisations are working with African Economic Community as the pillars of development initiatives.

5.0 SUMMARY

We have highlighted some of the strategies put in place by the African Union as well as regional economic organisations to promote integration of African states as key players in global economic arena.

6.0 TUTOR-MARKED ASSIGNMENT

Identify and discuss African Unions strategies for developing African economy.

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UNIT 5 SOCIO–CULTURAL ORGANISATIONS FOR FOSTERING WORLD PEACE AND SOCIAL DEVELOPMENT

CONTENTS

1.0 INTRODUCTION

Human beings are the greatest tools of any diplomatic policy. Thus, for any international relations to be fruitful it is important that cultures of the relating states are put in the front burner. Thus gaining knowledge of the culture of a people is a powerful tool for getting at them in bilateral relations. In light of this, a free flow of knowledge and idea needs the backing of cultural and bilateral agreements between sovereign states. Nations of the world do co-operative through social and cultural organisations which are established for the purpose of international relations. This unit will further discussion on international co–operative initiatives to develop the global community for it to become a better place to live in. It focuses on socio–cultural aspects of development.

2.0 OBJECTIVES

By the end of this unit, you will be able to:

- explain the meaning and dimensions of socio–cultural development.
- explain how cultural diplomacy is used in international relations as the use of ‘soft power’ or ‘smart power’.
- list and explain the functions of some international organisations for fostering socio-cultural harmony, understanding and global peace.

3.0 MAIN CONTENT

3.1 Meaning of Culture

Merrit (2003) defines culture as "the values and practices that we share with others that help define us as a group, especially in relation to other groups. In light of the definition above, it is clear that culture influences to some or great extent an individual's social interactions with others from the some or different cultures. There are different levels of cultures which include national culture, industry culture, organisational culture and professional/occupational culture. All these cultural levels influence our relations either at inter–personnel or group level. For this unit, we shall concern ourselves with national culture and how it is used in international relations. What is then a national culture?

National culture is the aggregate of values, beliefs, behaviours and practices that define the way of life of a sovereign state in a particular geo–political entity. This definition is apt in describing culture in a country where there are many nations with different cultural traits that are not easily absorbed by one dominant culture. For example, in Nigeria there are over 300 ethnic groups each claiming to have her own culture. However, it is possible to talk of national culture in Nigeria by limiting ourselves to bureaucratic, political and governance beliefs, values, norms and practices within the precinct of the state.

Elements of Culture and Socio-cultural Rights Elements of Culture
There are seven non-material elements of culture namely: Language, Norms, Values, Beliefs and Ideologies, Social Collectives, Statuses and Roles, Cultural Integration Socio–Cultural Rights. International organisations have endeavour to draft conventions designed to protect certain economic, social or cultural rights and these drafts have been entrenched through international instruments. Social and cultural rights are rights that are aimed to guarantee individuals a dignified, appropriate life style.

SELF–ASSESSMENT EXERCISE

Discuss the importance of culture in human and international relations

3.4 Global Organisations for Cultural Harmony and Understanding

Some international organisations whose conventions helped in promoting social and cultural rights are: International Labour Organisation; United Nations Educational, Scientific and Cultural Organisation (UNESCO); United Nations International Children's Endowment Fund; World Health Organisation; and United Nations Centre for Human Settlements.

United Nations Educational, Scientific and Cultural Organisation (UNESCO)

United Nations Educational, Scientific and Cultural Organisation were founded in 1946. UNESCO was founded to encourage international peace and universal respect for human heritage and rights by promoting collaboration and co–cooperativeness among the different cultures of the world. Among other factors, it was assumed that new international functional organisations would mean the end of power politics and usher in a new era of international collaboration (Morgenthau, 1968: 36). It is equally founded on the belief that wars are construed in the mind of man and that defence of peace should also be constructed in the mind of man. This could be achieved through building of the blocks of peace in the intellectual, moral and cultural solidarity of mankind. It is equally argued by the United Nations that the wide diffusion of culture and education of humanity for justice, liberty and peace is indispensable to the dignity of man and constitute a sacred duty which all nations must fulfil in the spirit of mutual assistance and concern. The formation of UNESCO is thus, to be understood as another effort geared towards attaining international order through promotion of intellectual, scientific and cultural heritage of man.

Morgenthau (1968:348) states that the purpose of UNESCO is to contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the people of the world without distinction of race, sex, language or religion. By the Charter of the United Nations the purpose of UNESCO will be to:

Collaborate in the work of advancing the mutual knowledge and understanding of peoples, through all means of mass communication and to that and recommend such international agreements as may be necessary to promote the free flow of ideas by word and image; give fresh impulse to popular education and to the spread of culture; by collaborating with members, at their request, in the development of educational activities; by insulting collaboration among the nations to advance the idea of equality of educational opportunity without regard to race, sex or any distinctions, economic or social; by suggesting educational methods best suited to prepare the children of the world for the responsibilities of freedom; maintain, increase and diffuse knowledge; by assuring the conservation and protection of the world's inheritance of books, works of art and monuments of history and science and recommending to the nations concerned the necessary international conventions; by encouraging cooperation among the nations in all branches of intellectual activity, including the international exchange of persons active in the fields of education, science and culture and the exchange of publications,

objects of artistic and scientific interest and other materials of information; by initiating methods of international cooperation calculated to give the people of all countries access to the printed and published materials produced by any of them.

United Nations Children Endowment Fund (UNICEF)

United Nations Children Endowment Fund is an inter-government organisation established in 1946. ECOSOC is the parent organisation of UNICEF. It is working with governments, local communities and other partners in over 160 countries to provide children with healthcare, nutrition, education and safe water and sanitation. Its headquarters are located in New York, Copenhagen and Florence. UNICEF works for child protection survival and development especially in developing countries within the framework of the convention on the Rights of the Child. UNICEF also provides relief and rehabilitation assistance in emergencies. it has staff in 190 countries, 84 percent of whom are in the field. Its major publications include The State of the World's children and the Progress of Nations UNICEF spearheaded the world summit for children in 1990. It was held at the UN headquarters in New York and about 150 leaders of countries attended. Governments worldwide have written the summits objectives into their policies and plans, ensuring that they will continue to make determined efforts to improve their children's welfare. Through UNICEF's efforts in partnership with other governmental and non-governmental organisations remarkable progress has been made in areas of reduction of infant mortality rates, better nutrition for children, improved enrolment in schools and general literacy. It has also been instrumental to the fight against diseases such as epitasis, polio, guinea worm, diarrhea, measles and others through immunisations in co–operation with the World Health Organisation. It has also brought about improvement in breast feeding, access to safe water and early childhood development. It is also supplying antiretroviral drugs to combat HIV/AIDS.

4.0 CONCLUSION

The cultural organisations we have discussed so far point out how transformation of standards and loyalties can be brought about for the attainment of global interests and needs. These organisations are autonomous of an independent of national governments thought they owe their existence to the agreements establishing them among member states. The organisations care for common needs that are evident and latent to development. The organisations have helped the growth of such positive and constructive common work, of common habits and interests making frontier lines meaningless by overlaying them with a natural growth of common activities and common administrative agencies as predicted by David Mitrany in 1946.

5.0 SUMMARY

We have discussed in this unit, the values of socio–cultural development through international co–operation. We have mentioned the fact that socio–cultural development entails recognition of the intrinsic values in the ways of life of a group of people and the need to accord them respect. It is noted that national cultures have also been built into the mainstream of international diplomacy for peace and understanding.

We have also highlighted the directive principles, functions and achievements of such bodies like UNESCO, UNICEF and Non–Governmental Organisations. And we have come to the conclusion that global peace is better guaranteed through that collaboration not only at political level but also at social, economic and cultural levels.

6.0 TUTOR-MARKED ASSIGNMENT

Define culture and discuss the material and non–material elements of culture.

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MODULE 5 CONTEMPORARY ISSUES IN INTERNATIONAL LAW AND ORGANISATION

INTRODUCTION

A vast network of international law and dozens of international organisations make globalisation possible. Treaties and other types of agreements among countries set rules for international trade and finance like General Agreement on Tariffs and Trade–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. Meanwhile, among many international organisations, the United Nations facilitates international diplomacy; the World Health Organisation coordinates international public health and protection, and the International Labor Organisation monitors, as well as fosters workers' rights around the world. In this Module, we shall take a look at the contemporary issues pertaining to these international legal and organisational standpoints.

UNIT 1 INTERNATIONAL LAW IN THE AGE OF GLOBALISATION

CONTENTS

1.0 INTRODUCTION

The scope and authority of international law have thus expanded dramatically during the era of globalisation. Historically, international law addressed only relations between states in certain limited areas (such

as war and diplomacy) and was dependent on the sovereignty and territorial boundaries of distinct countries (generally referred to as "states"). But globalisation has changed international law in numerous ways. For example, as globalisation has accelerated, international law has become a vehicle for states to cooperate regarding new areas of international relations (such as the environment and human rights), many of them requiring states to rethink the previous notions of the inviolable sovereign state. The continued growth of international law is even more remarkable in this sense, since states, having undoubtedly weighed the costs and benefits of the loss of this valuable sovereignty, have still chosen to continue the growth of international law.

2.0 OBJECTIVES

By the end of this unit, you will be able to:

- discuss the major issues involved in international law and globalisation
- identify how promises between states are exchanged.

3.0 MAIN CONTENT

3.1 Contextual Issues in International Law and Globalisation

There are several ways to think about law. In the domestic legal system, we think of law as the rules that the government issues to control the lives of its citizens. Those rules are generally created by the legislature, interpreted by the judiciary, and enforced by the executive branch, using the police, if necessary, to force citizens to obey. What is law for the international community if there is no one legislature, judiciary, executive branch, or police force? Imagine a school playground with several children at play. The "law" is the set of playground rules that the teacher tells her students. For example, she might tell them, "Don't hit your classmate." Two different reasons can explain why the children will follow this rule. On the one hand, they may follow the rule only because they are afraid of being punished by the teacher. On the other hand, the students may believe that it is a bad thing to hit their classmates. Since it is a bad thing to do, they will follow the teacher's rule.

In the first case, they will obey the rule only if the teacher is there and ready to punish them. In the second case, students will obey the rule even if the teacher is not there. In fact, even if the teacher is not present, the children may obey the rule because they have become used to not hitting each other and have therefore enjoyed playing with each other. Just as certain common understandings between children may make it easier for them to play, collective agreement on certain rules can often serve the

interests of all the members of a community. Just as on a playground without a teacher, in the international setting there is no central authority. For the most part, however, states will follow the rules they have agreed to follow because it makes these interactions easier for all parties involved.

Thus, the fact that there is no overall authority to force compliance with the rules does not necessarily mean that there is no law. Law still exists in this setting, though it may be practiced and enforced in different ways. International law can therefore be called "real law," but with different characteristics from the law practiced in domestic settings, where there is a legislature, judiciary, executive and police force.

Since there is no world government, there is no world Congress or parliament to make international law the way domestic legislatures create laws for one country. As such, there can be significant difficulty in establishing exactly what international law is. Various sources, however—principally treaties between states—are considered authoritative statements of international law. Treaties are the strongest and most binding type because they represent consensual agreements between the countries who sign them. At the same time, as stated in the statute of the International Court of Justice (ICJ), rules of international law can be found in customary state practice, general principles of law common to many countries, domestic judicial decisions, and the legal scholarship.

Treaties: Treaties are similar to contracts between countries; promises between States are exchanged, finalised in writing, and signed. States may debate the interpretation or implementation of a treaty, but the written provisions of a treaty are binding. Treaties can address any number of fields, such as trade relations, like the North American Free Trade Agreement, or control of nuclear weapons, such as the Nuclear Non-Proliferation Treaty. They can be either bilateral (between two countries) or multilateral (between many countries). They can have their own rules for enforcement, such as arbitration, or refer enforcement concerns to another agency, such as the International Court of Justice. The rules concerning how to decide disputes relating to treaties are even found in a treaty themselves—the Vienna Convention on the Law of Treaties (United Nations, 1969).

Custom: Customary international law (CIL) is more difficult to ascertain than the provisions of a written treaty. CIL is created by the actual actions of states (called "state practice") when they demonstrate that those states believe that acting otherwise would be illegal. Even if the rule of CIL is not written down, it still binds states, requiring them to follow it (Dinstein, 2004).

For example, for thousands of years, countries have given protection to ambassadors. As far back as ancient Greece and Rome, ambassadors from another country were not harmed while on their diplomatic missions, even if they represented a country at war with the country they were located in. Throughout history, many countries have publicly stated that they believe that ambassadors should be given this protection. Therefore, today, if a country harmed an ambassador it would be violating customary international law. Similarly, throughout modern history, states have acknowledged through their actions and their statements that intentionally killing civilians during wartime is illegal in international law. Determining CIL is difficult, however, because, unlike a treaty, it is not written down. Some rules are so widely practiced and acknowledged by many states to be law, that there is little doubt that CIL exists regarding them; but other rules are not as universally recognised and disputes exists about whether they are truly CIL or not.

General Principles of Law: The third source of international law is based on the theory of "natural law," which argues that laws are a reflection of the instinctual belief that some acts are right while other acts are wrong. "The general principles of law recognised by civilised nations" are certain legal beliefs and practices that are common to all developed legal systems (United Nations, 1945). For instance, most legal systems value "good faith," that is, the concept that everyone intends to comply with agreements they make. Courts in many countries will examine whether the parties to a case acted in good faith, and take this issue into consideration when deciding a matter. The very fact that many different countries take good faith into consideration in their domestic judicial systems indicates that "good faith" may be considered a standard of international law. General principles are most useful as sources of law when no treaty or CIL has conclusively addressed an issue.

Judicial Decisions and Legal Scholarship: The last two sources of international law are considered "subsidiary means for the determination of rules of law." While these sources are not by themselves international law, when coupled with evidence of international custom or general principles of law, they may help to prove the existence of a particular rule of international law. Especially influential are judicial decisions, both of the International Court of Justice (ICJ) and of national courts. The ICJ, as the principal legal body of the United Nations, is considered an authoritative expounder of law, and when the national courts of many countries begin accepting a certain principle as legal justification; this may signal a developing acceptance of that principle on a wide basis such that it may be considered part of international law. Legal scholarship, on the other hand, is not really authoritative in itself, but may describe rules of law that are widely followed around the world. Thus, articles and books

by law professors can be consulted to find out what international law really is.

SELF-ASSESSMENT EXERCISE

Examine the impact of globalisation on international law.

4.0 CONCLUSION

Despite the fact that there is no overall authority to force compliance with the rules does not necessarily mean that there is no law. Law still exists in this setting, though it may be practiced and enforced in different ways. International law addressed only relations between states in certain limited areas (such as war and diplomacy) and was dependent on the sovereignty and territorial boundaries of distinct countries (generally referred to as "states"). But globalisation has changed international law in numerous ways. Even among countries sharing the same ideological ancestry, such as the US and the European Union or Japan, debilitating trade disputes have studded their economic relationships. Consequently, international law in as much as it brings abundant benefits must be handled with care if it is not to be the harbinger of evil in the hands of the superpowers.

5.0 SUMMARY

The unit examined the relationship between international law and global system which had been set up to help moderate human transactions across world politics, commerce and interpersonal relations among nations. The unit also examined the impact of globalisation on international law. In this wise the unit noted that globalisation has definitely played a huge role in accelerating the rate of treaties exchanges in the world. Finally, the unit noted that customary international law (CIL) is more difficult to ascertain than the provisions of a written treaty.

6.0 TUTOR-MARKED ASSIGNMENT

Critically discuss the impact of globalisation on international law

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UNIT 2 ENFORCEMENT OF INTERNATIONAL LAW

CONTENTS

1.0 INTRODUCTION

The trend of the acceleration and intensification of international law through globalisation which happens to be a continuing process could not be avoided by every nation in the world. Despite the huge impact of globalisation contribution towards international human affair regulation as well as society life and their developmental endeavours, it is often said that law without enforcement is like a toothless dog that cannot bite. Owing to this, the concept of law be it domestic/local or international/foreign should be backed by enforcement. This unit will examine trends which have led to the raise of this phenomenon. It will also examine some of its key issues involved and drawbacks especially as it affects the developing world.

2.0 OBJECTIVES

By the end of this unit, you will be able to:

- discuss the concept of enforcement in the light of international law
- state the key issues involved in the enforcement of international law.

3.0 MAIN CONTENT

3.1 How is International Law Enforced?

The concept of enforcement is that which give force to; a putting in execution. It is a term that refers to the acceleration and intensification of mechanisms, processes, and all activities that has to do with set of rules and regulation of law. A treaty may have incorporated into its own text enforcement provisions, such as arbitration of disputes or referral to the ICJ. However, some treaties may not expressly include such enforcement

mechanisms. Especially in situations where the international law in question is not explicitly written out in a treaty, one can question how this unwritten law can be enforced. In an international system where there is no overarching authoritative enforcer, punishment for non-compliance functions differently. States are more likely to fear tactics used by other states, such as reciprocity, collective action, and shaming.

Reciprocity: This is a type of enforcement by which states are assured that if they offend another state, the other state will respond by returning the same behaviour. Guarantees of reciprocal reactions encourage states to think twice about which of their actions they would like imposed upon them. For example, during a war, one state will refrain from killing the prisoners of another state because it does not want the other state to kill its own prisoners. In a trade dispute, one state will be reluctant to impose high tariffs on another state's goods because the other state could do the same in return.

Collective Action: Through collective action, several states act together against one state to produce what is usually a punitive result. For example, Iraq's 1990 invasion of Kuwait was opposed by most states, and they organised through the United Nations to condemn it and to initiate joint military action to remove Iraq. Similarly, the United Nations imposed joint economic sanctions, such as restrictions on trade, on South Africa in the 1980s to force that country to end the practice of racial segregation known as apartheid.

Shaming: (Also known as the "name and shame" approach) most states dislike negative publicity and will actively try to avoid it, so the threat of shaming a state with public statements regarding their offending behavior is often an effective enforcement mechanism. This method is particularly effective in the field of human rights where states, not wanting to intervene directly into the domestic affairs of another state, may use media attention to highlight violations of international law. In turn, negative public attention may serve as a catalyst to having an international organisation address the issue; it may align international grassroots movements on an issue; or it may give a state the political will needed from its populace to authorise further action. A recent example of this strategic tactic was seen in May 2010, when the U.N. named the groups most persistently associated with using child soldiers in Asia, Africa, and Latin America (United Nations, 2010).

SELF–ASSESSMENT EXERCISE

What do you understand by international law enforcement?

3.2 Elementary Issues of Sovereignty

State sovereignty is the concept that states are in complete and exclusive control of all the people and property within their territory. State sovereignty also includes the idea that all states are equal as states. In other words, despite their different land masses, population sizes, or financial capabilities, all states, ranging from tiny islands of Micronesia to the vast expanse of Russia, have an equal right to function as a state and make decisions about what occurs within their own borders. Since all states are equal in this sense, one State does not have the right to interfere with the internal affairs of another state.

Practically, sovereignty means that one state cannot demand that another state take any particular internal action. For example, if Canada did not approve of a Brazilian plan to turn a large section of Brazil's rainforest into an amusement park, the Canadian reaction is limited by Brazil's sovereignty. Canada may meet with the Brazilian government to try to convince them to halt the project. Canada may bring the issue before the UN to survey the world's opinion of the project. Canada may even make politically embarrassing public complaints in the world media. However, Canada cannot simply tell Brazil to stop the rainforest project and expect Brazil to obey.

Under the concept of state sovereignty, no state has the authority to tell another state how to control its internal affairs. Sovereignty both grants and limits power: it gives states complete control over her own territory while restricting the influence that states have on one another. In this example, sovereignty gives the power to Brazil to ultimately decide what to do with its rainforest resources, and limits the power of Canada to impact this decision.

Globalisation is changing this view of sovereignty, however. In the case of the Brazilian rainforest, Brazil may consider a rainforest located wholly within its property an issue solely of internal concern. Canada may claim that the world community has a valid claim on all limited rainforest resources, regardless of where the rainforest is located, especially in consideration of issues like endangered species and air pollution. Similarly, states no longer view the treatment of citizens of one state as only the exclusive concern of that state. International human rights law is based on the idea that the entire global community is responsible for the rights of every individual. International treaties, therefore, bind states to give their own citizens rights that are agreed on at a global level. In some cases, other countries can even monitor and enforce human rights treaties against a state for the treatment of the offending state's own citizens.

SELF–ASSESSMENT EXERCISE

How does the concept of sovereignty relate to international law?

4.0 CONCLUSION

Enforcement of international law is a continuing process that creates the trends which provide its impacts on the society. The emerging of connecting technologies and the declining draconian approach of the state of nation has tremendous impact on trade and investment barriers worldwide. Those trends changed the dimension of the society through economic sovereignty, political and legal sovereignty, social and culture sovereignty, and technology. This changing led the society into the global world where the global products and brands, and global culture become more popular within the society.

5.0 SUMMARY

The unit noted that States are more likely to fear tactics used by other states, such as reciprocity, collective action, and shaming. Also, this unit highlighted that State sovereignty also includes the idea that all states are equal as any other states.

6.0 TUTOR-MARKED ASSIGNMENT

How does enforcement of law accelerate the development of rules and regulation among States?

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UNIT 3 ESSENTIAL PRINCIPLES OF INTERNATIONAL LAW

CONTENTS

1.0 INTRODUCTION

The trend of the acceleration and intensification of international law cannot operate without some parameters such as; law of armed conflict, principles of international economic law, international human right and international environmental law to quicken the development of global world. This unit seeks to address certain big questions regarding the current relationship between these international regulating parameters.

2.0 OBJECTIVES

By the end of this unit, you will be able to:

- state what international is all about
- account for the essential principles of international law in the world today.

3.0 MAIN CONTENT

3.1 What does International Law Addressed?

International law has developed certain areas of practice, guided by their own principles, documents, and institutions. Even though these areas of expertise can stand alone, to a certain extent, boundaries drawn in international law are arbitrary because the underlying principles of each field both inform and compete with one another. For example, both the laws of armed conflict and human rights support each other in the belief that state official torture is condemnable. The condemnation is doubly

reinforced by its affirmation in both fields. On the other hand, principles of international economic law may counteract principles in international environmental law, as evidenced by the possible conflicts between industrial development and environmental preservation.

International issues also do not often fit neatly into a single category; the treaty on Trade-Related Aspects of Intellectual Property Rights (TRIPs), for example, combines concerns in both economic and human rights fields, with the principles of each field dictating different results. The following sections of this Issue Brief address some of the major areas addressed by international law.

SELF–ASSESSMENT EXERCISE

Examine the reasons for the main focus of international law?

3.2 Law of Armed Conflict

The law of armed conflict (also called the "law of war") can be divided into two categories. The first concerns the legitimate reasons for starting a war, known by its Latin terminology, *jus ad bellum* ("Right to Wage War"). The laws during war, *jus in bello ("Justice in War")*, are also called international humanitarian law.

(i) *Jus ad bellum*. Article 2(4) of the UN Charter states that: "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations" (United Nations, 1945). Some regard this as the prohibition of the use of force outside of UN-approved actions. On the other hand, others consider this clause only non-binding rhetoric, especially considering the history of armed conflict since the UN's birth in 1945.

The UN Charter and CIL do recognise that a state is entitled to use force without international approval when it is acting in self-defense. However, the events that trigger this right to self-defense are subject to debate. Most international lawyers agree that self-defense actions must be immediately necessary and proportional to the attack the state is trying to repel. The clarity of what qualifies as a "just war" has been put in the spotlight as recently as the Invasion of Iraq in 2003, with scholars and politicians around the globe questioning the legitimacy of such a war. In this era of terrorism and weapons of mass destruction, some contend that legal self-defense also extends to preemptive attacks to prevent the development of a military threat.

(ii) *Jus in bello*. Once armed conflict has begun, international humanitarian laws begin to apply. Some of the most important principles of *jus in bello* are that there must be a valid military purpose to every attack ("military necessity"), that attackers must try to avoid killing non-combatants (the principle of "distinction" between military and non-military targets), and that if non-combatants are killed, their deaths must be in proportion to the military necessity of the attack ("proportionality"). For example, attacking a weapons factory is legitimate, but if the factory is located near civilian homes, then the attacker must try to avoid attacking those homes; if attacking them will inevitably kill many civilians, the attack should not take place. Applying these principles in practice, however, is very difficult. Who determines whether an attack was necessary, distinguished between civilians and combatants, and was proportional? The main rules governing *jus in bello* are written down in the Geneva Conventions of 1949 (ICRC, 1949).

3.3 International Economic Law

International law governs a diverse mixture of economic and commercial matters, such as trade, monetary policy, development, intellectual property rights, and investment. This area of international law reaches broadly enough to encompass topics ranging from international transactions by private parties to agreements between states to regulate their trade activities. The General Agreement on Tariffs and Trade (GATT) that governs international trade is the most important treaty in this area; it is administered by the World Trade Organisation. Others include the treaty on Trade Related Aspects of Intellectual Property (TRIPS) and the General Agreements on Trade in Services (GATS).

3.4 International Human Rights Law

International human rights law is different from most areas of international law because, rather than governing relations between states, human rights law governs a state's relations with its own citizens. The modern human rights law movement has its roots in the post–WWII trials of Nazi leaders at Nuremburg. The world community recognised that the mass atrocities committed during WWII were too serious to be handled under domestic laws because the crimes committed were crimes against all of humanity.

Subsequently, the creators of the UN recognised the reaffirmation of fundamental human rights as one of its most important purposes, and in the first year of its existence, set out to ensure that goal. The first step took place when The Human Rights Commission—at the time the lead UN body of human rights–produced the "International Bill of Human Rights,"

which is composed of the Universal Declaration of Human Rights and two binding treaties, the International Convention on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

On March 15, 2006, recognising the need to update its human rights organisations, the General Assembly of the UN created the Human Rights Council. The Human Rights Council was created with the specific intention to address the heavy criticism that The Human Rights Commission had received for allowing far too many states with poor human rights records into the delegation (BBC, 2006). This new body is responsible for further strengthening and promoting human rights around the world. One of the Council's many tools for protecting human rights is the innovative Universal Periodic Review, which allows for the examination of the status of human rights within all member states. Less than two weeks after the formation of the Human Rights Council, on March 27, 2006, the Commission on Human Rights met for its sixty–second and final session.

In January 2008 the Council drew criticism by calling on Israel to stop military operations in the Gaza Strip and to open its borders. This session was notable for being boycotted by both the U.S. and Israel who said that the Council's resolution had failed to address the rocket attacks against Israel (AFP, 2008). The commission was criticised in 2011 and 2012 for a perceived anti–Israel bias through its policies and resolutions (Lazaroff, 2012). Most recently, in July 2012, the council nominated Sudan and Ethiopia for seats, despite their record of human rights abuses (Human Rights Watch, 2012).

A sophisticated system of agreements and monitoring organisations exists to promote respect for the rights enshrined in these documents, both on international and regional levels, as with the European Convention on Human Rights and its Court of Human Rights, and the American Declaration and American Convention on Human Rights and their Inter–American Commission and Inter-American Court on Human Rights.

3.5 International Environmental Law

Environmental law revolves around a core theory that the earth has limited resources that must be jointly enjoyed and cared for, regardless of their physical presence in the territory of one state as opposed to another. Environmental law attempts to bring states into agreement on issues such as desertification, sustainable development, biodiversity, endangered species, hazardous materials, climate change, and trans–boundary pollution, all of which have been the subject of major international treaties, such as the United Nations Convention on Biological Diversity

(CBD), the United Nations Convention to Combat Desertification, and the Convention on International Trade in Endangered Species.

4.0 CONCLUSION

The mutual cooperation among the five major international law parameters of the global world regulating principles is more likely for the world economy to be integrated globally, rather than be fragmented into several regional blocs. Thus there can be a mutually supportive relationship between different states of the world without a common law. The implication of this singular fact is where the newly outlined laws by world regulating bodies cannot be overemphasised.

5.0 SUMMARY

This unit principally examined the prevalence of newly outlined laws in the contemporary world. The breakdown of nations into regional groupings has accentuated the globalisation phenomenon. Also, their interaction across economic, political and social, and even military cooperation needed to be guided by common laws.

6.0 TUTOR-MARKED ASSIGNMENT

Examine the main reason for the enactment of newly outlined of international laws arrangements may be helpful in the strengthening of an open world economy.

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UNIT 4 THE CATALYST IN INTERNATIONAL LAW

CONTENTS

1.0 INTRODUCTION

Traditionally, international law dealt only with the relationship between states, and states were the only catalyst, as well as creators and subjects of the law even at the global world. Today that has changed, with new actors joining states as both creators and subjects. This unit seeks to unpack the catalyst on the international law plane. This information will be useful for both students and general reader.

2.0 OBJECTIVES

By the end of this unit, you will be able to:

- explain the catalyst underlining the progress of international law
- explain in details the catalyst in international law one after the other.

3.0 MAIN CONTENT

3.1 The Catalyst on the plane of International Law

Domestic demand for more favourable laws has continued to boost growth in many countries in contemporary world. Notably, in advanced countries and to a lesser extent in emerging economies the catalyst in international law have played a significant role. Traditionally, international law dealt only with the relations between states, and states were the only creators and subjects of the law even at the global world. Today that has changed, with new actors joining states as both creators and subjects. These additional catalysts are: International organisations; Non-governmental organisations; Individuals and Transnational corporations.

States play the central and undisputed leading role in the creation of international law. However, the determination of whether an entity is actually a State can present a challenge. Generally speaking, most sovereign states are both states *de jure* (in law) as well as *de facto* (in reality). The generally agreed upon criteria for statehood are: Possesses a defined territory; Inhabited by permanent population; Controlled by an independent government and Engages in formal relations with other states.

The application of criteria is often subject to political considerations, however. Breakaway regions of countries often meet or are on the way to meeting these criteria, such as Kosovo, the Albanian–majority province of Serbia, or Chechnya, part of Russia, but are not recognised as states by the international community. Another issue in statehood that has been highly controversial for many years is the recognition of the State of Palestine. In such an instance this region is internationally recognised by many states (*de jure*), however controls little to no portion of their claimed territory (*de facto*). Specifically, state representation, where more than one government tries to represent a single state, is also an important consideration. For example, even though the Taliban religious movement effectively controlled Afghanistan prior to the U.S. invasion in 2001, Afghanistan was represented in the UN by the government that had been deposed by the Taliban, but still claimed to be the country's legitimate rulers.

International Organisations

International organisations, otherwise known as intergovernmental organisations, or IGOs, are formed between two or more state governments. Some IGOs operate by making decisions on the basis of one vote for each member–state, some make decisions on a consensus or unanimity basis, while still others have weighted voting structures based on security interests or monetary donations.

In the General Assembly of UN, each state has one vote, while in the Security Council, five states are permanent members and have a veto over any action. The World Bank arranges its voting according to the Member State's shareholding status, which is roughly based on the size of the state's economy. This is often thought of as the "one dollar equal to one vote" approach to representation. There are nearly 2,000 international organisations that deal with a wide variety of topics requiring international cooperation, such as the International Civil Aviation Organisation, the Universal Postal Union, the International Organisation for Standardisation, and the International Organisation for Migration (United Nations, 2003).

Non–Governmental Organisations

Non–governmental organisations (NGOs), also called "civil society" organisations, are groups formed by individuals working across national borders to affect public policy. Recent progress in technology, coupled with globalisation's emphasis on international cooperation, has allowed the effectiveness of these organisations to grow drastically. Individuals living in different countries can now network with one another, and the Internet has permitted NGOs to both obtain and publish information on an extensive level, previously only available to states.

NGOs have had significant impact on environmental affairs, such as Green peace's advocacy work on climate change, Amnesty International's advocacy of human rights, and the International Campaign to Ban Landmines, which won a Nobel Peace Prize for its work in shaping a global treaty to prohibit use of landmines. However, as the influence of NGOs has grown, more questions are being raised regarding their accountability. Essentially, NGOs are special-interest groups on an international scale, which means that they are unelected and unaccountable to any public oversight, even though they claim to speak for the "public" as a whole. Failure to deliver adequate or promised results, coupled with little to no structural oversight has proven to be a large obstacle, which many NGO's still currently face scrutiny for (Munoz & Undarya, 2010).

Individuals

The position of individuals under international law has evolved significantly during the last century. Now, more than ever, under international law individuals are being given more rights and being held responsible for their actions. Human rights law, for example, has tried to establish that every person around the world has certain basic rights that cannot be violated. At the same time, individual accountability under international law has been established, first at the Nuremburg trials and recently at the International Criminal Tribunal for Yugoslavia and the International Criminal Tribunal for Rwanda and the dawn of the International Criminal Court, the first permanent international institution to hold individuals responsible for violations of the laws of armed conflict.

This issue of individual accountability in the international system can be seen with the actions carried out in June 2011, when the International Criminal Court (ICC) issued an arrest warrant for Libyan dictator Moammar Gadhafi for "Crimes against humanity" that were purportedly carried out while trying to quash a growing rebellion within the Libyan Borders (NPR, 2011). However, Gaddafi was eventually captured by National Transitional Council forces and subject to extra–judicial killing along with his son and close advisors in October 2011 (Greenhill, 2011).

Transnational Corporations

Transnational corporations (TNCs), sometimes called multinational corporations (MNCs), also are playing an increased role in the development of international law. TNCs are commercial entities whose interests are profit–driven. Transnational corporations lobby states and international organisations in a manner similar to NGOs, with the hopes of having their interests protected under international law. Many of the same doubts related to NGO accountability and legitimacy can also be raised in the context of TNCs. For these reasons, the UN has sought both to regulate and to work with TNCs. At the Millennium Forum in May 2000, a proposal was put forth to regulate TNCs. A Draft Code of Conduct on TNCs was reviewed and debated by various UN bodies for years, with no results. TNCs also have been sued in US courts for violating international law in the way they affect the human rights of people in countries where they operate.

In 2005, in another attempt to regulate a code of conduct for transnational corporations, former UN Secretary General Kofi Annan appointed John Ruggie as the UN Special Representative for Business and Human Rights. In 2008, Ruggie created the concept of "Protect, Respect, and Remedy," which was presented in concrete form in 2011 and became known as the "UN Guiding Principles on Business and Human Rights." The Human Rights Council unanimously endorsed these principles and quickly established a group to focus on their implementation (The Kenan Institute, 2012). The group first met in Geneva, Switzerland in December 2012, and found that much progress had been made in recent years (United Nations, 2012).

SELF–ASSESSMENT EXERCISE

Examine the reasons for the catalyst in international law.

4.0 CONCLUSION

The stronger the catalyst of the international law into several strands, then the better socio–economic and political transactions of various states become in contemporary period. This fact has been reiterated by a number of corporate organisations across the world. It is quite commendable that the unit underscored the significant improvement that was brought about through the plane of the catalyst in international law. State as a catalyst plane in international regulation cannot be undermined. Thus, States were the only creators and subjects of the law before the advent of others at the global world.

5.0 SUMMARY

This unit examined the improving scene of the catalyst in international law space. Thus it was noted that this improved outlook has spurned the rapid growth of the corporation among States of the world over several decades ago.

Therefore, the improving economic space in the world towards another attempt to regulate a code of conduct for transnational corporations, especially in 2005 and 2008 respectively is worth commendable.

This state procedure of international regulating consciousness was presented in concrete form in 2011 and became known as the "UN Guiding Principles on Business and Human Rights.

6.0 TUTOR-MARKED ASSIGNMENT

Examine the main reason through which the catalyst in international law may be helpful in the strengthening of an open world economy.

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UNIT 5 MAJOR ORGANISATIONS IN THE SUSTAINABILITY OF GLOBAL WORLD

CONTENTS

1.0 INTRODUCTION

As noted earlier in the previous modules, there are nearly 2,000 international organisations that deal with a wide variety of topics requiring international cooperation, including diplomacy, trade, aviation, migration, development, and many others. As with international law in general, these organisations are crucial to managing globalisation, but are controversial because of their impact on state sovereignty. This unit examines most important issues in international organisations, starting with the prominent of all, the United Nations.

2.0 OBJECTIVE

By the end of this unit, you will be able to:

- explain the crucial organisations behind the management of globalisation.

3.0 MAIN CONTENT

3.1 International Organisations and the Sustainability of Global World

The United Nations System

The United Nations is a complex network of organisations. Just as any government may be divided into branches, such as the judiciary, legislative, and executive, the UN also has various bodies with different functions. The overarching framework of the United Nations incorporates five principal organs, but a vast array of underlying specialised agencies, programs, funds, and related organisations maintain ties with the UN while operating under differing levels of independence. The five principal

organs of the UN operate as the political base of the United Nation:

General Assembly: The General Assembly (GA), which is made up of the 192 member states, is the main deliberative body of the UN that meets annually in New York. In the plenary sessions of the GA, the member states address issues of international concern and debate resolutions, most of which have already passed through several lower committees. These resolutions hold no legally binding authority, but since each member–state gets one vote, GA resolutions represent the beliefs of the international community and are often considered "soft" law.

Security Council: Article 24 of the UN Charter confers upon the Security Council the "primary responsibility for the maintenance of international peace and security." As such, the Security Council is the only UN body that can pass resolution that the member states are legally committed to obey. The Security Council is also the only part of the UN that can authorise the use of force and thereby physically enforce its resolutions. The Security Council has 15 members, including five permanent members, China, France, Russia, the U.K., and the U.S., and ten non–permanent members selected on a regional basis by the GA. The five permanent members have the authority to veto any substantive issue. The Security Council can meet at any time and has previously established peacekeeping operations, international tribunals, and sanctions.

Economic and Social Council: The Economic and Social Council (ECOSOC) is composed of 54 member–states elected by the GA according to fair regional representation standards. As its name suggests, ECOSOC is charged with making reports and recommendations in the fields of "economic, social, cultural, educational, health and other related matters." As such, ECOSOC oversees the work of 14 UN Specialised Agencies and 14 specialised commissions, which deal with issues such as drugs, crime prevention, and the status of women. Through its relationship with these outside agencies, ECOSOC often reviews their work and suggests areas of development; for example, the 2003 session of ECOSOC passed resolutions adopting reports of the UN Development Program, the World Food Program, and the World Summit on Information Society.

Secretariat: The Secretariat, headed by the Secretary–General, offers administrative and substantive support to all of the programs of the UN, ranging from translation services to preparing studies on any topic the UN considers. Individuals working within the Secretariat are international civil servants, meaning that they pledge they will not follow the orders of their home state, but will instead work for the good of the international community. The Secretary–General plays a leading role as the spokesperson of the UN, which allows him to help set the agenda of the

UN, in terms of how the UN operates as an institution, as well as prioritising the importance of the different issues the UN takes up, including his "good offices" in helping to settle international disputes.

International Court of Justice: The International Court of Justice (ICJ), as the principal judicial organ of the UN, resolves disputes among States and gives advisory opinions to the UN. Judges of 15 different nationalities make up the body of the ICJ, which meets in The Hague. In its 68 years of existence, the ICJ has been presented with about 200 cases, including both contentious, i.e., between states, such as the legality of U.S. involvement in Nicaragua, in the Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), and advisory, i.e., on questions from the UN and its agencies, such as the decision discussing the Legality of the Threat or Use of Nuclear Weapons.

UN Specialised Agencies

When the UN was founded, a deliberate decision was made to keep it decentralised. Thus, the political operations of the UN are kept separate from the cooperative and technical branches of the UN's specialised organisations. The specialised agencies are organisations with varying degrees of independence that agree to coordinate their work through agreements with ECOSOC. Each specialised agency negotiates its own agreement with ECOSOC, which leads to a very intricate system in which different organisations maintain different types of relationships with ECOSOC.

This system has led to some severe criticism. Agencies, when not competing for resources, may duplicate one another's work. Lacking true coordination, the policies of one agency may directly conflict with the policies and, collectively, the agencies often fail to put forth a comprehensive and coalesced approach to complicated international problems. On the other hand, having specialised agencies often allows the international community to address specific problems without specifically entering into political debates. This approach ideally allows for more coordination among states on common technical concerns.

International Labor Organisation: The International Labor Organisation (ILO) was established in 1919 by the Treaty of Versailles, which also created the failed League of Nations, the predecessor of the UN. The ILO continued, despite the demise of the League of Nations, and in 1946, it became the first specialised agency of the UN. In 1969 the ILO was the recipient of Nobel Peace Prize. The ILO, deviating from the practice of other UN branches, has a tripartite structure: state governments have one vote each, but workers and employers from every state also have a vote to cast. The ILO concentrates on establishing labor standards on issues like working conditions and child labor. It also has a significant capacity

to provide technical assistance to labor groups in states needing support, such as offering advice on labor laws and social security systems.

World Health Organisation: Established in 1948, the goal of the World Health Organisation (WHO) is the attainment by all peoples of the highest possible level of health. Its program of work includes monitoring and publicising disease outbreak information, supporting vaccination drives, and educating health workers. Of all the specialised agencies, the WHO has the largest budget and perhaps the most authority within its specified field. The WHO can pass international health regulations that legally bind member states, unless the state chooses to opt out.

UN Related Organisations

Related organisations are similar to the specialised agencies, but they have more independence. They do not report to the UN political bodies, though their work may be the subject of UN debates, and they are run under the rules of their own founding documents.

World Trade Organisation: When the UN was first created, along with the World Bank and the IMF, the member states wanted to create a third organisation dealing exclusively with trade. Unfortunately, even though the states drafted a charter for an International Trade Organisation (ITO), several States, including the U.S., refused to ratify the charter and the ITO was dead before it was even properly started. While all of this was playing out politically, some states adopted the several rules of the ITO in a provisional agreement, expecting these rules to serve as a makeshift measure until the ITO came into existence. When the ITO failed, their "provisional" agreement, the General Agreement on Tariffs and Trade, became the prevailing multilateral international trade agreement until the World Trade Organisation (WTO) was created in 1995. While this makes the WTO a relatively young international organisation, its history stems from the trade negotiations handled previously under GATT.

International Atomic Energy Association (IAEA): Inspired by U.S. President Eisenhower's "Atoms for Peace" speech to the UN General Assembly, work drafting the statute of the IAEA began in 1955. When the statute was concluded in 1957, the IAEA assumed its role as the world's forum for cooperation in the field of nuclear science. The IAEA defines its work in three pillars: nuclear verification and security, safety, and technology transfer. It works not only to ensure that nuclear weapons are not proliferated among states, but it also assists in the peaceful uses of nuclear technology, such as nuclear medicine and energy projects. A key document of international law operating under the auspices of the IAEA is the Treaty on the Non–Proliferation of Nuclear Weapons (NPT). The NPT holds stable the number of "legal" holders of nuclear weapons to five declared states, which coincides with the permanent seat holders of

the UN Security Council—China, France, Russia, the U.S., and the United Kingdom. In addition, there are currently four non-signatory parties that are known or believed to possess nuclear weapons—India, Pakistan, North Korea, and Israel.

Regional Organisations

The following is an introduction to some of the more prominent regional organisations. However, it is simply an introduction, as there is a vast group of regional organisations. States often share common regional interests and therefore find it easier to collaborate within a single region. Each organisation tends to be distinct according to the desires of its constituents. Some regional organisations, like the EU, have such binding authority that they can overrule the national laws of one of their member states, while others, like the Association of Southeast Asian Nations (ASEAN), have based their organisation on the principles of non–intervention in domestic affairs.

SELF–ASSESSMENT EXERCISE

In what way, the major organisations in the world can resolve crisis?

4.0 CONCLUSION

A discussed earlier, international law has traditionally been based on the notion of state sovereignty, but that concept has been breaking down because of globalisation. Interactions between states have become more complicated, involving a wide array of issues that require them to give up some of their sovereignty to have effective relations with each other. Similarly, international law has begun to deal with issues traditionally inside the borders of individual states, such as human rights. These developments have become very controversial, however. International law is often criticised for a lack of legitimacy. For example, the law is shaped to a large degree by politics within the international system. An action, though clearly illegal in terms of international law, may go unpunished due to overriding political considerations. Since the UN Charter gives veto authority to five Security Council members, who would presumptively veto any measures to enforce international law against their own state, the legitimacy of an organisation with such unequal application of the law must be questioned to a certain degree. The fundamental question that comes to mind goes: “when the most powerful players determine the rules of the game, how legitimate can these rules be”?

Furthermore, most of those countries are not democracies—China, Russia, and others routinely and clearly violate international human rights law, for example. Why are they allowed to help set what the law is? (In

response, a group called the Community of Democracies has developed to promote democratic cooperation.) Indeed, unelected bodies wield significant power in the formulation of international law, from the UN Security Council to the dispute settlement body of the World Trade Organisation (WTO). They make decisions and implement policy that can affect people around the world, but if those people are unhappy with these decisions, or if the choices made fail to reflect their interests, when the actors are in the international system, the people affected rarely have the power to hold them accountable. How can people trust international law and international organisations when there is no direct connection between them? These questions are central to the question of whether the current rules of international law—the way they are made, and the way they are implemented—are a fair means of governing the world.

5.0 SUMMARY

The unit reviewed the recent major organisations in the sustainability of global world. The unit also discussed some fundamental sovereignty to have effective relations with each other, as well as, the issues that may be adversely affected worldwide such as equitable responsibility and sharing of common good.

6.0 TUTOR-MARKED ASSIGNMENT

How can international organisation mismanagement affect global world living standards?

7.0 REFERENCES/FURTHER READING

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