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AN APPRAISAL OF THE EVOLUTION AND ROLE OF INTERNATIONAL ECONOMIC LAW IN REGULATING ECONOMIC RELATIONS AMONG NATION

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Introduction

Definition of international Economic Law

International Economic Law regulates the international economic order and economic relations among nations. However, according to Subedi, the term international economic Law, encompasses a large number of areas.

International economic Law is often defined to include a collection of topics ranging from private international law of trade to public international law of trade; to aspects of international economic law and law of international finance and investment. According to Nnabue, international economic law has widely been conceived in terms of a branch of international law alongside other branches like international humanitarian law, International human Rights law, international law of the sea in which case it stands on the pivot of international law while keeping its

Abstract

The role of international economic law in the regulation of trade relation between nations cannot be over emphasized. International Economic law is viewed as a phrase that can cover a very broad inventory of subjects embracing the law of economic transactions; government regulations of economic matters; and related legal relations including litigation and international institutions for economic relation. International economic law has widely been conceived in terms of a branch of international law alongside other branches like international humanitarian law, International human Rights law, international law of the sea in which case it stands on the pivot of international law while keeping its peculiarities.

These peculiarities expose its content and concern to the economic development of states as structured by the international community. This work appraise the evolution of the international economic law, its fundamental principles, basis of international economic law, the concept of sovereignty in international economic law in relation to question about the allocation of power, monopoly of power, among others.

Peculiarities. These peculiarities expose its content and concern to the economic development of states as structured by the international community.

Jackson viewed international economic law as a phrase that can cover a very broad inventory of subjects embracing the law of economic transactions; government regulations of economic matters; and related legal relations including litigation and international institutions for economic relation. The writer is of the opinion that it is reasonable to suggest that ninety percent of international work is in reality international economic law in one form or another. Charnovitz posits that in answering the question “**what is international economic law**”? One can usefully begin by the ordinary meaning of those three words. In being “international; international economic law is law applying to matters that cross borders. According to the author, a crossed border could mean anything from a land frontier to covering the entire planet. Once there is crossing of a boarder, then the trans-border matter is no longer within the sole jurisdiction of one state. ‘The economic’ in international economic law refers to economy itself or economic analysis. To that extent economics becomes international when it considers external influences on a domestic economy. He further stated that once the word economy is acknowledged, the core question of international economic is what policies are most conducive to boosting economic growth and human welfare? When there is a need for law to govern such national or international policies, that law is part of international economic law. ‘International economic’ according to the author, includes treaty and customary law. International economic law could possibly apply to three phenomena viz; rules between states, rules for how states treat individuals and rules for individual to individual transactions.

Haque & Burdescu defined international economic law as rules of public international law that directly concerns economic exchanges between the

subjects of international law. The authors further stated that one can appropriately defines international economic law “as a branch of international law that consist of the rules, customs, principles and processes applicable to all international economic reactions”. The modern approach approves of the second definition because it acknowledges that globalization of the international economy is resulting in increasing transactions between various economic force and policies that involve structure, trade, finance and development.

International economic law is not derived from a single or several sources of law but it has it genesis in many national, regional, international law policy and customary practices which are all components of international economic law.

International economic law can be defined as a law that covers the conduct of private parties involved in cross-border economic transaction and sovereign states in international economic relation. It can also be regarded as law relating to investment, economic development, relations, institutions and regional integration. Importantly, defining international economic law involves mainly two questions viz; what system of law is involved and what is the content of international economic law?

The first question shed light on the system of law that international economic law belongs to. Is it a domestic/numerical system or the public international law system? First, international economic law is understood as a branch of public international law, secondly, as including all branches of law concerns with economic phenomena of international concern.

Apparently international economic law has no clear definition developed either in practice or theory. That being the case, many years ago, a scholar in international economic law opined that: no general theory of international economic law has yet been fully developed in the literature. Today I will reach the same conclusion with regards to the definition of international economic law. That no generally accepted definition of international economic has yet been fully developed.

FUNDAMENTAL PRINCIPLES OF INTERNATIONAL ECONOMIC LAW

International economic law regulates the international economic relations of states enhancing their sovereign equality, promoting reciprocity and economic sovereignty. The United nations General Assembly adopted as part

of its resolutions on the new international economic order (NIEO) the charter of economic rights and duties of states as an attempt to implement the objectives of the (NIEO) and to establish the norms of international economic relations. Certain Article of the charter spelt out the rights and duties of states in a more suitable and strong way. Chapter one of the charter outlined the fundamentals of international relations which are principles of general nature including both political and economic principles in the following words;

“Economic as well as political and other relations among states shall be governed, inter alia , by the following principles;

- a. Sovereignty, territorial integrity and political independence of states;***
- b. Sovereign equality of all states;***
- c. Non aggression;***
- d. Non intervention;***
- e. Mutual and equitable benefit;***
- f. Peaceful co existence;***
- g. Equal rights and self determination of peoples;***
- h. Peaceful settlement of disputes;***
- i. Remedying of injustices which have been brought about by force and which deprive a nation of the natural means necessary for its normal development;***
- j. Fulfillment in good faith of international obligations;***
- k. No attempt to seek hegemony and spheres of influence;***
- l. Promotion of international corporation for development; and***
- m. Free access to and from the sea by land locked countries within the framework of the above principles”.***

Many of the Principles embodied in the charter were considered as forming the basis of the development of international economic law albeit the charter

has no binding legal effect. At certain situation customary international law provides the background and foundation for the institutions of international economic relations. Examples of such norms are those that pertain to freedom of communication, freedom of the high seas; diplomatic protection and international claims.

BASIS OF INTERNATIONAL ECONOMIC LAW

The principles of international law such as economic sovereignty, reciprocity, sovereign equality, freedom, and *pacta sunt servanda* are also regarded as the basis of international economic law. All international laws came from the same sources which were outlined generally in Article 38 of the statutes of the international court of justice. Article 38 provides thus;

- (1) *The court whose function is to decide in accordance with International law such disputes as are submitted to it, shall apply;*
- a) International conventions, whether general or particular establishing rules expressly recognized by the contesting states;
 - b) International custom, as evidence of a general practice accepted as law;
 - c) The general principles of law recognized by civilized nation;

Subject to the provision of article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations as subsidiary means for the determination of rules of law. International economic law is also based on the following modern principles;

- i. The duty to co-operate
- ii. Permanent sovereignty over natural resources; and
- iii. Preferential treatment for developing countries in general and least developed countries in particular.

THE CONCEPT OF ECONOMIC SOVEREIGNTY IN INTERNATIONAL ECONOMIC LAW

The concept of sovereignty is critical to the understanding of international economic law. And one of the most important attributes of states sovereignty is economic sovereignty without it political sovereignty is incomplete. Whenever states began to function as politically independent and sovereign entities, they realized that economic sovereignty is the substratum of their

sovereignty. Economic sovereignty has been defined as the power of national Government to make decisions independently of those made by other governments according to Raustiala, "Sovereignty is often defined as "supreme and independent power or authority in Government as possessed or claimed by a state or community in a defined territory."

Waller and Simon defined sovereignty as those fundamental rights of states at the international level while at the domestic level; sovereignty refers to the allocation of law making functions within a state. The concept of sovereignty can be analyzed from the perspective of what can be called its contestable elements like Government versus popular sovereignty internal versus external sovereignty legal versus political sovereignty against the Stephen Krasner's suggested system of dividing the concept of sovereignty, which was domestic sovereignty, international legal sovereignty, Westphalia sovereignty and interdependence sovereignty.

Sovereignty as a fundamental concept in traditional international law serves as an essential basis for international peace and security. In the past decades a trend has been witnessed towards national sovereignty being exchanged for a harmonized economic policy at regional and international levels. Such an exchange involves some gradation of "ceding sovereignty" as a matter of degree not kind and the question is to what extent, state should cede control over their economic and social policies to achieve global economic efficiency? Sovereignty has different meanings dimensions attributes the understanding of which depends on the context it is used. Accordingly, there is no authoritative or single definition that can be given to the concept. Sovereignty has been variously defined and described as "an essential contested concept referring to questions about the allocation of power; government decision about power normally. Sovereignty is said to focus on "the monopoly of power". When a state exercises economic control over the economic activities of both natural and juridical persons conducting business within the country, whether foreigners or nationals, it is said to have asserted economic sovereignty. For some historical reasons, many states have inherited on independence a situation in which foreign companies or individuals enjoyed certain privileges or concessions and control over the economic activities of the country concerned. In some states the mining rights and natural resources were controlled by individual or foreign companies under the concession agreement entered into with the previous Government weather colonial or

otherwise. In many countries it is hard to assert economic sovereignty without doing away with the rights privileges and concessions enjoyed by foreigners over the countries natural resources.

When the country concerned wish to embark on a policy that is aimed at economic development, it has to consider harnessing its natural resources in accordance with its economic policies. It became necessary therefore for the states to assert sovereignty over their natural resources and request that foreigners comply with the new states policy. Economic sovereignty is both description of the economic powers of state in totality “as well as its equal status in international economic relations. State sovereignty connotes juridical independence from the authority of other participants in international economic relations under the framework of international law. And as augmented by the principle of equality of states.

Finally, mention should be made of the fact that the principle of equality and independence has been affirmed in various United Nations resolutions in the economic field “as well as judicial decisions.”

CONCLUSION

In the light of the forgoing therefore, it is clear that political sovereignty can only be said to have been achieved by a nation when such nation has economic sovereignty. Advisably, under -developed and developing nations claiming political sovereignty shall work towards ensuring economic sovereignty being the most important attribute of state sovereignty. Countries, especially African countries should work towards industrialization and market expansion being the twin factors that stimulate economic growth and development. Again, legal framework should be strengthened and make effective in order to achieve the desired objectives.

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