

INTERNATIONAL INSTITUTIONS AND NON-GOVERNMENTAL ORGANISATION: UNDERSTANDING THEIR NATURE AND FUNCTIONS IN INTERNATIONAL LAW*

Abstract

In the last decades international institutions have played very influential role in promoting peace and development globally. Their unique role has also featured continued interactions with member states and Non-Governmental Organizations that it is becoming increasingly difficult to understand their personality and their difference from international non-governmental organisations. The general aim of this paper is to examine the concept of international institutions, their nature and role in international relations and to draw a distinction between them and non-governmental organisations. The paper is divided into five sections. Section one presents the meaning of international institution, answer the questions of the nature of international institution through classification based on number of members, their common history, their geography and locations and interests. The paper extensively discussed the formation of the international institutions using the United Nations, World Bank, International Monetary Fund, European Union, Economic community of West African States and finally the African Union as examples. This paper also examined the differences in their role and relationship with member states.

1. Introduction

The peace of Westphalia of 1648 ended the World War and settled the path to state sovereignty and independence. International institution of 1945 were formed to prevent another devastating experience of World War I and II. Global leaders knowing that there was need to replace the League of Nations with a new institution that could carry out similar goals but in different way established the United Nation (UN). In its Charter¹, world leaders made a commitment to peaceful relations.

Some of the that no longer would a state be permitted to do what it liked to its own citizens without having to answer to other state under international relationship.

Wigwe opined that international Institution have its existence in various forms of history resulted in grouping together nations to protect their common interest and to achieve its purpose and aim in the development on social economic politic power that is spread out of interdependence among states who are gradually losing the sovereignty and inherent to determine the domestic affairs without external inference,² While Malcon N. Shaw³ opined that, “the evolution of the modern Nation State and the

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¹ UN Charter 1945, Article 1

² Chris Wigwe, the economic perspective of the law of international institution (2018) Pg. 3

³ Malcon N. Shaw, International Law (7 Ed.) P. 23.

consequent development of an international order founded upon a growing number of independent and sovereign territorial units inevitably gave rise to the question of international co-operation.” The world cannot do without these international organisation, hence the facilitate co-operation across states whilst maintaining their sovereignty. Discussion and resolution of critical issues like peace keeping and enforcement, environmental problems, economic and human right matter.

Examples of international institutions include the United Nations (UN), the World Bank, International Bank for Reconstruction and Development.

Most international institutions operate as part of one or more international regimes. An international regime is a set of rules, standards, and procedures that govern national behaviour in a particular area⁴. Examples of international regimes include arms control, foreign trade, and Antarctic exploration⁵. International institutions are often central to the functioning of an international regime, giving structure and procedures to the “rules of the game” by which nations must play. For example, the World Trade Organization (WTO), the North American Free Trade Agreement (NAFTA), and the European Union (EU) are key organizations that define the international trade regime.

While there are less than 200 governments in the global system, there are approximately 300 International institutions, all play a regular part in global politics and transnational socio-economic activities⁶. However, importance of international institutions has increased in the present inter-connected and inter-dependent world. The increasing interdependence forced the modern state to search the areas of mutual advantage such as trade, communications, economic development, and world peace. Since the states must, in so many areas, cooperate, adjust, accommodate, and compromise to promote their common welfare, to solve problems not limited to national boundaries, and to lessen conflict, it is entirely logical for them to create elaborate agencies of international institutions for these ends⁷. It is also logical to assume that they will continue to be used by states as indispensable though limited tools for a wide variety of purposes. Since the trend of world events is toward increased contacts and a growing diversity of problems, we may reasonably expect international institutions to also become increasingly diverse in number and purposes rather than to diminish in significance.

The interdependence of nations in the modern world means that no single nation can dictate the outcome of international conflicts. Nor can private groups and individuals

⁴ Martin, LISA L. (1993). Credibility, Costs, and Institutions: Cooperation on Economic Sanctions. *World Politics* 45:405-432

⁵ (n2)

⁶ Kalpana Rajaram (ed), *International organisations, conferences and treaties*

⁷ LeRoy Bennett, *International Organisations: Principles and Issues*, New Jersey : Prentice Hall Inc, 1998

rely on national governments to solve major world problems. Therefore, both governments and individuals will continue to turn to International institutions as an important way to address these problems and to protect their own interests. As the world shrinks, the line between domestic and international problems becomes increasingly blurred. International events have their international implications. In this situation, the international institutions may serve as useful tools of the states for their mutual cooperation.⁸

2. Conceptual and Theoretical Framework

2.1 Nature of International Institution

The term international organization is interpreted in the Vienna Convention on the Law of Treaties to mean ‘an intergovernmental organization’⁹. The International Law Commission defined the term “international organization” to mean an organization established by a treaty or other instrument governed by international law and possessing its own international legal personality. International organizations may include as members, in addition to States, other entities¹⁰. The meaning of international institution seem to be the well-articulated by the Penguin Dictionary of International Relations which defines international organisation as “formal institution structures transcending national boundaries which are created by multilateral agreement Nation States¹¹.”

Several authors have also preferred definition and meaning of international institutions based on their understanding of the nature of international institutions. Michel Virally defines international organisation as ‘an association of States, established by agreement among its members and possessing a permanent system or set of organs, whose task is to pursue objectives of common interest, by means of cooperation among its members’. Mingst defines International organization as, ‘institution drawing membership from at least three states, having activities in several states, and whose members are held together by a formal agreement¹².’

Barbara Koremenos et al defined international institutions as explicit arrangements, negotiated among international actors, which prescribe, proscribe, and/or authorise behaviour and these explicit arrangements are public, at least among the parties

⁸ (n5).

⁹ Vienna Convention on the Law of Treaties 1969, Article 2 (1) (i)

¹⁰ International Law Commission, Responsibility of International Organizations: Titles and texts of the draft articles 1, 2 and 3 adopted by the Drafting Committee Fifty-fifth session Geneva, 5 May-6 June 2003 and 7 July-8 August 2003

¹¹ <http://www.igi-global.com/dictionary/international-institution/72912>

¹² Karen Mingst, international organization, <https://www.britannica.com/topic/international-organization>

themselves¹³. This definition was also adopted by John Duffield in his work.¹⁴ John Duffield further explained that international institution occupied a central place in international relations, composed of countries that come together to achieve specific goals. Virally specifically distinguished five core traits in organisations: ‘their inter-State basis, their voluntaristic basis, their possession of a permanent system of organs, their autonomy and their cooperative function’¹⁵.

Other very notable definitions of international institutions are those proffered by Wigwe and Klabbers. Wigwe defined international institution as ‘*creation of states for the attainment of common goal in various area including maintenance of world peace, achieving socio-political and economic development and so on*’. He further opined that international institutions is the coming together of nations to achieve a particular aim and this aim is achieved by countries belonging to international institution by pooling resources together meaning that corporation is a major factor in this institution’.¹⁶ John Klabbers views international institutions as social constructs created by people in order, presumably, to help them achieve some purpose, whatever the purpose maybe.¹⁷ He further states that the aim of international institutions being created is to make ends meet.¹⁸

Finally, although social and political interactions have been enhanced among countries of the world through the activities of international organisation thereby ensuring state cooperation, International Organisations are not intended to be proto-states or governments in the making. They were and are established for limited purposes – primarily, to facilitate the making of some treaties, to focus debate and make recommendations to governments and to serve as venues for settling disputes on closely circumscribed topics. They are institutions of limited and delegated powers, lacking the plenary rights of sovereigns under international law¹⁹. According to Brölmann, some formal aspects of the definition of international organisations is that it is a creation of

¹³ Barbara Koremenos, Charles Lipson, and Duncan Snidal, "The Rational Design of International Institutions," *International Organization* 55:4 (2001), pp. 761-800; *JKoremenos, B.; Lipson, C. & Snidal, D. (2001). The Rational Design of International Institutions. MTT Press*

¹⁴ Duffield, What Are International Institutions? *International Studies Review*, Vol. 9, No. 1 (Spring, 2007), pp. 1-22; https://www.jstor.org/stable/4621775?read-now=1&refreqid=excelsior%3A38b21d0da0605b47385673d80687c99d&seq=4#page_scan_tab_contents

¹⁵ Michel Virally, ‘Definition and Classification of International Organizations: A Legal Approach’ (1977), in Catherine Brölmann, *The Institutional Veil in Public International Law International Organisations and the Law of Treaties*, Hart Publishing, 2007, p 16

¹⁶ Chris Wigwe, international monetary law, effect of trade liberalisation in West Africa Countries and their currencies with World Bank and IMF Articles of Agreement and Ecowas Treaty (2018) at P. 22

¹⁷ Duffield, John, what one international institutions (Cambridge University Press 2007)

¹⁸ Klabbers, J. Introduction of International Law (Cambridge University Press 2002)

¹⁹ José Alvarez, International Organisations as Law-Makers, 2005, at 15.

state; possess a degree of permanency; and possess a degree of autonomy with respect to member states²⁰. Other aspects of international institutions that have been identified includes the element of legal personality²¹ and the element of institutional autonomy or independent will. According to White, one of the key features and consequences of personality is autonomy from the member States²².

2.2 Nature of Non-Governmental Organisations

On the other hand, non-governmental organizations (NGOs) are organizations that were not founded by a state and therefore, is typically independent of governments. The phrase non-governmental organization came into use with the establishment of the United Nations in 1945 with provisions in Article 71 of chapter 10 of the United Nations charter for a consultative role for organizations that neither are governments nor member states. According to ECOSOC Resolution 1296 (XLIV), any international organisation which is not established by intergovernmental agreement shall be considered as a non-governmental organisation for the purpose of these arrangements²³.

2.3 Classification of International Institutions

Like most social phenomena, international institutions can be classified based on their commonalities ranging from their composition, objectives to their functions among others. Without prejudice to the foregoing, it is important to note that classification of international institutions are not absolute categories, as some institutions by their nature and composition can be classified into more than one category. I shall consider few classifications of international institutions based on the following: number, common history, interests and region or geography.²⁴

2.3.1 Classification Based on Number of Members

This method of classification is based on the fact that membership of some international institutions is exclusive, while others open to all countries. The United Nations is an example of international institution because membership is open to all sovereign countries, unlike other institutions. Other institutions are limited to only few members, and this limitation may be derived from the purpose they intend to achieve.

²⁰ Catherine Brölmann, *The Institutional Veil in Public International Law International Organisations and the Law of Treaties*, Hart Publishing, 2007, p 17

²¹ Ian Brownlie, *Principles of Public International Law* (6th edn), 2003, at 649; Ignaz Seidl-Hohenveldern and Gerhard Loibl, *Das Recht der Internationalen Organisationen einschliesslich der Supranationalen Gemeinschaften*, 1996, at 4–6

²² Nigel White, *The Law of International Organization* (2nd edn), 2005, at 1–2

²³ *ECOSOC Resolution 1296 (XLIV): Arrangements For Consultation With Non-Governmental Organizations. 3 May 1968, para 1*

²⁴ Oluwafemi O. L and others, *International Institutions* (Unpublished Ph.D thesis, National Open University of Nigeria 2020)

An example of such institution is the G20 which comprises twenty members made up of the most industrial nations in the world. They were formerly G7 which comprised of Western European countries and the United States. Later, Russia was admitted into this exclusive group and its name changed to G7+1 and then G8, but now its members increased to twenty.²⁵

2.3.2 Classification by Common History

Some institutions can be classified by the virtue of the shared common history of their member states, which has resulted in their grouping together to protect their common interest. The common wealth group is an example of an institution whose membership is limited to countries which were hitherto part of the British Empire, and these include United Kingdom, former British colonies, protectorates and dominions. Another example is the North Atlantic Treaty Organization (NATO) which arose from issues of geo-politics and security during the cold war era. Its membership is drawn from countries of Western Europe as well as the United States and Canada, who were locked in security posturing against member state of the former Union of Soviet Socialist Republics (USSR) and its allies, then known as the Warsaw pact countries. NATO as an institution as outlived the cold war and has found relevance in the wake of new global security challenges.²⁶

2.3.3 Classification Based on Geographical Location

This is another classification of international institutions which concerns itself with groupings of international institutions of their members. Just as some institutions are universal transcending geographical locations and cutting across the globe, others are regional and territorial in nature.

The most significant example of an institution whose membership is drawn without prejudice to geographical location bias include members of the United Nations group, such as the World Health Organization, the International Criminal Court and the Food and Agriculture Organization. However, on the other hand, regionally grouped international institutions include the Economic Community of West African States (ECOWAS) which comprises of only states in the West African Sub-region, the African Unity (OAU) and the European Union (EU).²⁷

2.3.4 Classification Based on Interests

This classification is based on the common interests of members of international institutions, which is deducible from the objective necessitating the formation of such institution. For better understanding of the classification of international institutions

²⁵ Ibid

²⁶ Ibid

²⁷ Ibid

based on interest, it is important to consider a few major area common interests and examples of some international institutions which have been formed on the basis of these.²⁸

a. **Security and peace keeping:**

An example of an institution based on security is the European Police Office (EUROPOL) whose mission is to assist law enforcement authorities of member state in fighting organized crimes. Another is the international police office (INTERPOL) which has a membership of 190 countries.

The Interpol focuses primarily on public safety, anti-terrorism, organized crimes, environmental crime, piracy, illicit drug production, corruption etc. other examples include of UN security council and NATO.²⁹

b. **Food Security:**

The World Food Programme (WFP) is an institution established to address hunger Worldwide and it distributes food to about 90 Million people per year and has 80 countries as its members. Also, the Food and Agriculture Organization (FAO) is part of the UN group and has a mandate of global security.³⁰

c. **Health**

The World Health Organization (WHO) aims at helping member states in attaining the highest level of health for their population. Also, another example is the United Nations and Aids (UNAIDS) whose singular objective is to provide an HIV/AIDS free world.³¹

d. **Education**

United Nations Educational, scientific and cultural organization (UNESCO), also a member of the UN group, has its main mandate to build peace through education in all ramifications.³²

e. **Socio-Cultural Values:**

United Nations Educational, Scientific and Cultural Organization (UNESCO) fall under this category as well, because one of its mandates is the promotion of respect for and protection of world's cultural heritage.

f. **Settlement of International Disputes**

There are various means of settling international disputes and this can be by negotiation, arbitration, mediation, litigation and conciliation. In international relations settings, the settlement of disputes is especially very important, because of the sovereignty of member states. An example of international dispute settlement institution is the international center for settlement of investments disputes which has 139 members and its objective is to facilitate and provide

²⁸ Ibid

²⁹ Ibid

³⁰ Ibid

³¹ Ibid

³² Ibid

conciliation and arbitration of disputes between member countries and foreign investors. The International Court of is another institution that settles disputes among its member states, within the context of international law. Also the international court of Arbitration in The Hague helps in the settlement of international disputes between international institutions.³³

g. **Economy:**

Examples include the G20 which draws its membership from the 20 most industrialized nations, and the Economic Community of West African States (ECOWAS) which draws its membership from countries in the West Africa Sub-Region.

The main objective of these institutions is to bring together their members in a forum, for facilitating cooperation on issues of economy and development, which are mutual interest to their members.³⁴

h. **Human Rights**

Africa Commission on Human and People's Right aims at protecting the human rights of Africans. The institution conducts research and generates action plans to prevent and end grave abuses of human rights and to help demand justice for those whose rights have been violated. It has its headquarters in Banjul, Gambia.³⁵

i. **International Finance**

There are numerous international institutions whose main aim is for finance advice and assistance. The International Monetary Fund (IMF), the World Bank, and the International Bank for Reconstruction and Development, to mention a few. The International Bank for Reconstruction and Development has 184 countries as member and its main aim is to have members subscribe to its capital and lend to credit worthy borrowing countries. The International Monetary Fund has 184 members. The World Bank is an International Institution that offers loans, advice and array of customized resources.³⁶

j. **Regulatory and Governance Institutions**

These institutions have taken appropriate regulations and governance of field such as trade and investment, principal and economical regulation, environment and Labour, intellectual property and standards of goods and services.

The consequences of globalization and Worldwide economic integration, cross-border movements of populations include the fact that individual countries can no longer effectively perform regulatory functions. In response, many systems of regulatory and governance institutions have emerged at the transnational level. The growing density of international and transnational regulation enables more efficient regulation of trans-border in nature but have potential effects beyond the

³³ Ibid

³⁴ Ibid

³⁵ Ibid

³⁶ Ibid

boundaries of the states in which they are carried out. These regulations do not only apply to the activities of states but to firms, NGOs and Individuals. Examples include the World Trade Organization (WTO), the International Atomic Energy Agency (IAEA), the International Civil Aviation Authority (ICAO), the Intellectual Property Organization (WIPO), the International Standards Organization (ISO) and environmental regimes such as Kyoto and Montreal protocols. These regulatory standards are often implemented domestically by participating nations, although in some cases, such as refugee status determinations by the UN, International institutions may act directly against individuals. Usually, official of member state usually agree to common regulatory standards and practices which they then implement domestically.³⁷

2.4 Formation of International Institutions

Various International institutions have with them varied histories regarding their formation and *raison d' être*. This section is better appreciated by providing relevant examples of how international institutions are formed.

a. United Nations

The origin of the United Nations is traceable to 1st January, 1942 when representatives of the 26 nations endorsing the Atlantic charter and agreed not to make separate peace. The United Nations was formed in 1945 after the World War to replace the League of Nations to stop the war between countries and provide a platform for dialogue in solving international economic, social and humanitarian problem after 51 nations have ratified the United Nations charter. As an international institution, the UN is committed to maintaining international peace and security, developing friendly relations among nations and promoting social progress, better living standards and human rights. There are 193 members including every internationally recognized sovereign state in the World.³⁸

The aim of the United Nation includes maintaining international peace and security protecting the environment fastening social and economic development human rights protection, providing humanitarian aids to member state from natural disaster and armed conflict.

b. European Union

There Organizations are essential to the formation of the European Union. The European coal and steel community (ECSC), the European Atomic Energy Community (EURATOM) and the European Economic Community (EFC).

³⁷ B. Kingsburg and R.B. Stewart Legitimacy and Accountability in Global Regulatory Governance (Esperia Pub Ltd 2008)

³⁸ Ibid

After the Treaty of Rome was signed, the ECSC was accompanied by the European Atomic Energy Community. When the Treaty of Maastricht was signed in 1992, the ECSC, EURATOM and EFC were merged and became the European Union. The European Union was formed in order to raise Europe from ashes left by World War II. The major governments of the post-war continental Europe committed themselves to work on reducing the competitive pressures that led to the conflict. The first step they took was to unify the European coal and steel industries. Six years later, extended beyond the coal and steel industries and later gave birth to the EFC through the ratification of the 1957 treaty of Rome by France, Italy, Belgium, Netherlands, Luxembourg, and West Germany. The treaty of Rome is anchored on the vision of ending war and the division of the European continent. This treaty created a veritable framework for the construction of Europe into the future and a process of creating an ever closer union between the people of Europe.

c. Economic Community of West African State (ECOWAS)

The formation of the Economic Community of West African State dates back to 1963. This idea goes back to President William Tubman of Liberia, who made the call in 1964. An agreement was signed between Cote d'voire, Guinea, Liberia and Sierra Leone in February 1965, but this came to nothing. In April 1972, General Gowon of Nigeria and General Eyadema of Togo re-launched the idea, drew up proposals and toured 12 countries, soliciting their plan from July to August 1973. A meeting was then called at Lome from 10-15 December 1973, which studied the draft treaty. This was further examined at a meeting of experts and jurists in Accra in January 1974 and by ministerial meeting in Monrovia in January 1975. Finally, 15 West African countries signed the treaty for an Economic Community of West African State (Treaty of Lagos) on 28 May 1975.

The protocols launching ECOWAS were signed in Lome, Togo on 5 November, 1976³⁹.

d. World Bank

The World Bank was created at Bretton Woods in 1944 to lend to European countries to help them rebuild after World War II. It was the World's first multilateral development bank, and was funded through the countries, but soon lent money to Chile, Mexico and India to build power plants and railways. The world bank came into full existence on 27th of December by 1945 following international ratification of the Bretton Woods agreements, which emerged from the United Nations Monetary and Financial conference.

³⁹ Ibid

The bank however created five institutions namely International Bank for Reconstruction and Development, International Development Association, International Finance cooperation, Multilateral investment Guarantee Agency, International center for settlement of Investment Disputes. The World Bank also lent money to countries to help with family planning, pollution control and environmentalism.

Their function is to fight poverty by offering developmental assistance to middle-income and low income countries by offering loan and training both the private and public sector.

e. General Agreement on Tariffs and Trade

General Agreement on Tariffs and trade was formed in 1947 and signed into international law on January 1948. GATT remained one of the important features of International trade agreement until it was replaced by the World Trade Organization on January 1, 1995. The foundation for GATT was laid by proposal of International Trade Organization in 1945. When GATT was concluded by 23 countries at Genva, in 1947 (to take effect on January 1, 1948), it was considered an Interim Agreement pending the formation of a United Nations agency to succeed it. When such an agency failed to emerge, GATT was amplified and further enlarge at several succeeding negotiations. It subsequently proved to be the most effective instrument of world trade liberalization, playing a major role in the massive expansion of world trade.

f. International Monetary Fund

The International Monetary Fund came into existence on December 27, 1945, when 29 countries signed the treaty called Articles of Agreement in 1946, the board of governors convened the first meeting of the IMF in Savannah, Georgia, U.S, to elect its executive directors and decide the location of the organizations permanent headquarters and to draft the bylaws. They decided to select Washington D.C. as the permanent headquarters of the IMF. The financial operations of the IMF started on March 1, 1947. The statutory goals of the IMF are to overseas exchange rates, giving financial and technical assistance to the member countries and to address global problems.⁴⁰

This institution is set up to cater for fix exchange rate system created by Bretton Wood Conference of 1949. The aim of IMF was to build a framework for economic corporation to avoid repetition of competitive devaluations. In terms of functions, the body grant loan to countries experiencing economic difficulty; promotes economics stability and financial policies; opens free flow of goods and investment.

The last 10 years have witnessed an extraordinary rise in the level of international activities undertaken by non-government organisation (NGOs). The term NGO covers,

⁴⁰ Ibid

quite literally, every kind of organisation that is not a state. This negative definition is broad enough to catch the activities of intergovernmental organizations as well as the entire realm of civil society ‘-that slice of collective life that take place above the individual yet below the state. NGOs at typically defined as private organizations not established by government or by intergovernmental agreement which are capable of playing a role in international affairs by virtue of the their activities or as a private international organization that serves as mechanisms for cooperation among private national group in international affairs.

NGOs can be subdivided into national or international. A national NGO is involved with issues with a particular state while an international contends with matters across borders. According to Bob Reinalda, NGOs can be seen from three different levels, ‘as domestic actors when they are interacting with their national political systems; as transnational actors when they establish their relationships with a like-minded NGO in another country and start functioning across national boundaries; as an international non-governmental actor when several NGOs from three or more countries start cooperating with each and constitutes an international NGO that serves as a platform for collaboration among national NGOs’⁴¹. An example of a national NGO is the National Rifle Association, an American group concerned about second amendment rights and the promotion of hunting and shooting sports while an example of an international NGO is Amnesty International, a human rights organisation with chapters in many nations throughout the world.

Since the 1970s NGO influence and participation in international bodies have increased dramatically, international NGOs such as Greenpeace and Amnesty International have taken part in international conferences, influenced international agreements, and successfully promoted public awareness of the issues they lobby and support. According to Simmons, NGOs exercise their influence over the national governments and corporation, multilateral institutions and corporation through adapting four strategies. These include:

setting agendas through using innovative technologies and lobbying with policymakers to bring people’s issues to the priority lists of policymakers; negotiating legitimacy through providing information and analysis to the general public and political actors to influence the decision making processes; conferring outcomes through participating in the designing process of multilateral treaties; and, implementing solutions through reaching out to the unreachable and doing what the

⁴¹ Khalid Saifullah, Syed Imran Haider and Azhar Waqar, ‘The Role of International Non-governmental Organisations in International Politics’, [http://dx.doi.org/10.31703/gsr.2019\(IV-I\).04](http://dx.doi.org/10.31703/gsr.2019(IV-I).04)

Governments cannot do such as the provision of social services in poverty-stricken areas

NGOs are important for a number of reasons: they provide valuable technical expertise and experience in complex fields like climate change and humanitarian relief; they bring public attention to issues that states ignore. For example, international NGOs were instrumental in the enactment of the mine Ban Treaty by publishing the issue and getting many states to sign a comprehensive global treaty bearing the use and manufacture of certain kinds of mines.

In spite of the increasing influence of the NGO, states are and will continue to be the principal actors on the world stage at least for the foreseeable future. This has been true since the Westphalian system was created in 1648 when the states became the supreme entities for domestic governance and international relations. It is interesting to note herein that by lumping together the categories of actors that are part of the international scene, the term "NGO" thus reinforces the traditional simplistic state-centric view of international law. This view regards states as the primary unit of analysis, with the contribution of other actors being assessed behaviour.

It is imperative to note that NGOs are distinct from international institutions. They are not established by treaties while international institutions are established by treaties for a particular purpose in the interest of state or government; NGOs are established to play some roles like moving societies towards substantial development. While international institutions are established in order to safeguard state sovereignty; NGOs operate as lobbyists but influence policy makers while international institutions operate at the level of consent, recommendation, and cooperation; international institutions possess international legal personality thus are capable of entering into agreements among themselves or with states while NGOs are mere groupings of individuals.

Finally, in terms of enforcement, international institutions are capable of enforcing international laws while NGOs are only capable of holding international institutions to enforce international laws.

NGOs act as partners with international institutions for implementation of novel policy solutions while international institutions are the policy makers, that makes treaties among states. NGOs are organizations that operate independent from any government, while international institutions must operate with the presence of government or state. NGOs focus mostly on programs, such as environmental, socio-economic and humanitarian while international institutions focus mostly on politics, finance and humanitarian.

In conclusion, both international institutions and NGOs are quite pivotal as their purpose is to make a civilization prosper at higher rates. They are flag bearers in our societies. Although there are differences, they both have the potentials to bring more peace, solidarity, and equality in communities.

2.5. Powers and Functions of International Institutions

In this section, the powers and functions performed by various international institutions namely, United Nations, World Bank, International Monetary Fund, European Union, Economic Community of West African States and the African Union is examined. The functions of International institutions is shaped their power which may be legally assigned and sometimes attributed. Each of the international institution examined possess their own powers and these power vary. The power legally assigned or attributed to international organisations shape their ability to function and limits or guides their sphere of influence hence the power play witnessed in international negotiations.

*In the advisory opinion given by the ICJ on the Jurisdiction of the European Commission of the Danube between Galatz and Braila*⁴² the Court opined that the differentiation between two “independent authorities” must be made by reference to their functions. When in one and the same area there are two independent authorities, the only way in which it is possible to differentiate between their respective jurisdictions is by defining the functions allotted to them. As the European Commission is not a State, but an international institution with a special purpose, it only has the functions bestowed upon it by the Definitive Statute with a view to the fulfilment of that purpose, but it has power to exercise these functions to their full extent, in so far as the Statute does not impose restrictions upon it.

2.5.1 United Nations

The main function of the UN today is to maintain peace and security for all of its member states. Though the UN does not maintain its own military, it does have peacekeeping forces that are supplied by its member states. On approval of the UN Security Council, these peacekeepers are, for example, sent to regions where armed conflict has recently ended to discourage combatants from resuming fighting. In 1988, the peacekeeping force won a Nobel Peace Prize for its actions.⁴³

In addition to maintaining peace, the UN aims to protect human rights and provide humanitarian assistance when needed. In 1948, the General Assembly adopted the universal declaration of human rights as a standard for its human rights operations.

⁴² *Advisory Opinion, 8 December 1927*), PCIJ Publications 1927, Series B, no. 14 (hereinafter *Danube*

⁴³ Ibid

The UN currently provides technical assistance in elections, helps to improve Judicial structures and draft constitutions trains human rights officials, and provides food, drinking water, shelter, and other humanitarian serves to peoples displaced by famine, war and natural disaster.⁴⁴

When disasters strike that the governments of countries affected can't handle alone, the UN coordinates humanitarian relief to get help to those in need quickly and efficiently. Leading the way is the office for the coordination of Humanitarian Affairs (OCHA) of UN secretariat. OCHA orchestrates the response through the inter-agency standing committee, which is comprised of UN system organizations, each of which specializes in providing a specific type of relief.⁴⁵

UNICEF is just one of the UN agencies providing that humanitarian aid, supplementing its work to save and protect children.

The United Nations Refugee Agency was founded after World War II to help Europeans displaced by that conflict. Today, UNHCR takes the lead in protecting refugees and solving the problems they face. The World Health Organization (WHO) coordinates the international response to humanitarian health emergencies, like the Corona virus pandemic, ranging from disease outbreaks to conflict to natural disasters. W.H.O takes the lead on global health matters, including settling the research agenda and norms and standards issuing policy options, providing countries with technical support and monitoring and assessing health trends.

The World Food Programme (WFP), mobilizes food and transport financing to provide relief to victims of disaster and refugees under UNHCR's care and the United Nations Development Program (UNDP), responsible for natural disaster mitigation, prevention and preparedness. When emergencies occur UNDP works with governments to coordinate relief and rehabilitation efforts at the national level. Financing that work is the UN central Emergency Response Fund (CERF), managed by OCHA, CERF receives voluntarily contributions to provide immediate funding for lifesaving humanitarian actions anywhere in the world.

2.5.2 World Bank

The World Bank is a financial institution that provides financial and technical assistance.

The functions of the World Bank are to assist in the construction and development of territories of members by facilitating the investment of capital for productive purpose, including the restoration of economies of destroyed or disrupted by war, the

⁴⁴ Ibid

⁴⁵ <https://www.unicefusa.org/stories/global-examples-humanitarian-aid-un/38249> accessed 16/07/2021

construction of productive facilities to peacetime needs and the encouragement of the development of productive facilities and resources in less developed countries; and the promotion of private foreign investment.

As part of its mandate the World Bank works to promote the long-range balanced growth of international trade and the maintaining of equilibrium in the balance of payments; It arranges loans made or guaranteed by it in relation to international loans through other channels so that more useful and urgent projects can be dealt with first. Finally, the World Bank is mandated to conduct its operations with due regard to the effects of international investment on business conditions in the territories of member's state.³¹

2.5.2 International Monetary Fund

The functions of the International Monetary Fund includes: the fostering international monetary cooperation through a permanent institution that provides the machinery for consultation on international monetary problems; facilitation of the expansion and balanced growth of international trade, and contribution to the promotion and maintenance of high levels of employment and real income and the development of the productive resources of all members as primary objective economic policy; promotion of exchange stability, maintenance of orderly exchange arrangements among members in order to avoid competitive exchange depreciation; assistance in the establishment of a multilateral system of payments in respect of current transaction between members and in the elimination of foreign exchange restrictions that hamper the growth of world trade; and boosting of confidence of members by making the general resources of the fund temporarily available to them under adequate safeguards, thus providing them the opportunity to correct maladjustments in their balance of payments without resorting to measures destructive of national or international prosperity.

2.5.3 European Union

The overall function of the European Union is to create and implement laws and regulations that integrate the member states of the European union.³³ The European commission identifies three functions of the European union which are: the initiation of proposal for legislation, acting as Guardian of the treaties; and serving as Manager and Executor of the union policies and of international trade relationships.

2.5.4 Economic Community of West African States

According to Nwosu (2010), the functions of the Economic Community of West African States (ECOWAS) are to promote economic integration in all commerce, telecommunication, natural resources and economic activities. ECOWAS works to promote cooperation and integration, leading to the establishment of an economic union in West Africa in order to raise the living standards of its people and to maintain and enhance economic stability; it fosters relations among member states and contribute to

the progress and development of the African continent; it harmonizes and coordinates national policies and promotes the integration of programmes, projects and activities, particularly in food, agriculture and natural resources, industry, transport and communications, energy, trade, money, taxation, economic reform policies, human resources, education, information, culture, science, technology, service, health, tourism, legal matters.

Other notable functions include to harmonize and coordinate policies for the protection of the environment; and to establish a common market through the liberalization of trade by the abolition among member states, of customs duties levied on imports and exports, and the abolition among member states of non-tariffs barriers in order to establish a free trade area at the community level. In order to achieve free trade, ECOWAS has promoted the adoption of a common external tariff and a common trade policy vis-à-vis third countries and works to remove hindrances to the free movements of persons, goods, services and capital, and to the right of residence of establishment between member states.

2.5.5 African Union (AU)

These entity purpose is strengthening the centred union through active communication to the union and participating members state on the implementation of Africa agenda, which is poverty, health issues, undemocratic government and ravaging the illiteracy in the nation.

The main objectives of the AU are: to promote the unity and solidarity of African states; to coordinate and intensify cooperation and efforts to achieve a better life for the peoples of Africa; to safeguard the sovereignty and territorial integrity of member states; to rid the continent of colonization and apartheid; to promote international cooperation within the United Nations framework; and finally to harmonize members' political, diplomatic, economic, educational, cultural, health, welfare, scientific, technical and defence policies.

3. Difference between International Institutions and Non-Governmental Organisations

The difference between international institutions and non-governmental organisation can be discussed putting into perspective, their mode establishment, membership, legal Personality, conferment of privileges and immunities and their relationship with States, their regulation. International institutions are usually established by treaty or other instrument governed by international law while non-governmental organisations are initiatives of individuals or associations registered in compliance with their national law. The United Nations was established in 1945 by the United Nations Charter. The International Monetary fund which was established by its Article of Agreement of the

International Monetary Fund which was adopted on the 31 of May, 1976 at the United Nations Monetary and Financial Conference.

Mostly international organizations arise as a result of cooperation among states for better technical, social, economic development and to enjoy the benefit and rights conferred by membership. International institutions mostly have intergovernmental membership and have become the pathway through which member states develop their formal cooperation for the management of their affairs. On the other hand non-governmental organisations are not formed by States, their membership is mostly attained by individuals or another non-governmental organisation subscribing to membership of an existing organisation or coming together to form by registration an organisation to pursue its common purpose.

International organisation have international legal personality. International organisations are subjects of international law. This status flows from the fact that they are established under principles of international law and have most of the rights, privileges and immunities accorded to state accorded to them. The International Court of Justice (ICJ) in the Reparation for Injuries case⁴⁶ruled on the international legal personality of the United Nation in its 1949 advisory opinion. The ICJ opined thus:

...the Court has come to the conclusion that the Organization is an international person. That is not the same thing as saying that it is a State, which it certainly is not, or that its legal personality and rights and duties are the same as those of a State. Still less is it the same thing as saying that it is 'a super- State', whatever that expression may mean...What it does mean is that it is a subject of international law and capable of possessing international rights and duties, and that it has capacity to maintain its rights by bringing international claims. Whereas a State possesses the totality of international rights and duties recognized by international law, the rights and duties of an entity such as the Organization must depend upon its purposes and functions as specified or implied in its constituent documents and developed in practice.

Apart from the general presumption of international legal capacity, the constituent document of some international institutions have codified their legal capacity in the territory of member states. For instance, the United Nations Charter provides that the organisation shall enjoy in the territory of its member such legal capacity as may be

⁴⁶ Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion, [1949] ICJ Rep 174

necessary for the exercise of its function and the fulfilment of its purpose. Article 2 of the Articles of Agreement of the International bank of reconstruction and Development confers the Bank full juridical personality.

International institutions enjoy similar privilege and immunities as States enjoy. According to the United Nations Charter,⁴⁷ ‘the organisation shall enjoy in the territory of each of its members such privileges and immunities as are necessary for the fulfilment of its purpose. The Convention on the Privileges and Immunities of the United Nations, 1946 also accentuates the privileges and immunities of the United Nations. Such privileges are also bestowed on the representatives of the members of the organization. The Articles of agreement of the International Monetary Fund⁴⁸ and the Articles of Agreement of the International bank of reconstruction and Development⁴⁹ contains similar provisions.

The immunity of International Institutions is based on the principle of functional necessity; international institutions need to enjoy immunities and certain privileges in order to perform their functions effectively; they would not be able to perform their functions if national courts can interfere in their work⁵⁰. However, non-governmental organisations do not enjoy immunity and privileges that are enjoyed by member states and international institutions.

Another aspect of the difference between NGOs and institutions worth mentioning is their relationship with Member States. While non-governmental organisations do not have any agency relationship with member states, international institutions are considered as agents of the members states they represent. According to Wigwe, ‘*the powers of institutions are legally binding and enforceable because of the presumptions in law that an agency relationship existed between the member states and the organisations*⁵¹’.

Finally, the last area of difference between institutions and non-governmental organisations is their regulation. Non-governmental organisations are regulated by their constitution and the decisions of the members and general provisions of the laws of the countries where they are registered. In the case of international institutions, they are regulated by their constitutive law. They are also regulated by public international law since they are subjects of international law.

⁴⁷ United Nations Charter, Article 105

⁴⁸ IMF Articles of Agreement, art IX

⁴⁹ IBRD Articles of Agreement, art. IV

⁵⁰ Neils Blokker, ‘International Organizations, the Untouchables?’ Grotius Center for International Legal Studies, Leiden University, 2.

⁵¹ Chris Wigwe, *International Law and Practice: The World Bank, IMF and State Sovereignty* (Mountcrest University Press 2011) 109

4. Conclusion and Recommendations

A study of International Institution shows that they are not only made up of representatives of member states but also have a unique personality that enables them to play their key roles and functions in a globalized world sometimes autonomously. Their objectives could be cultural, technical, social, and economic among others. However, the extent of their impact and effectiveness is influenced by their level of power which cannot be limited to the consent of member states. It is necessary to empower these institutions to achieve the objectives that form the basis of their creation.

Recommendations

The law making process in the current international system is far from ideal, it is poorly coordinated and rather haphazard, considering this structural weakness, the system should be enhanced to induce complacency. Fresh thinking in the sphere of international law is required in the nature, magnitude of present and prospective global challenges. There is need for creativity to come up with innovative ideas and techniques and much courage to implement them effectively. Thus, the need for creative and qualified persons. International institution should see how they might be able to preserve the advantages of the universal multilateralism whole at the same time adapting to the new circumstances of a fast changing world and for which they will need to acquire.

There should be a reform in bureaucratic nature of international institution which has slowed down their operations.