

**THE EFFICACY OF INTERNATIONAL LAW: CHALLENGES OF
IMPLEMENTATION AND INSTITUTIONAL LIMITATIONS**

BY

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**BEING A LONG ESSAY WRITTEN AND SUBMITTED TO THE FACULTY OF
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THE REQUIREMENTS FOR THE AWARD OF THE DEGREE OF BACHELOR OF
LAWS (LL.B) OF THE UNIVERSITY OF BENIN.**

FEBRUARY 2025

CERTIFICATION

I, **Ternenge Toba ACHI**, with Matriculation Number **LAW1906101**, do hereby certify that, apart from the references made to other person's work, which have been duly credited, this entire project is the product of my personal research and that this project has neither in entire nor in part been presented somewhere for any other degree.

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APPROVAL

We the undersigned, certify that this project work was written and completed by **Ternenge Toba ACHI**, with Matriculation Number **LAW1906101**, in partial fulfillment of the requirements for the award of the degree of Bachelor of Laws (LL.B)

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DEDICATION

This project work is dedicated to the Almighty God, the author and finisher of my faith, the giver and sustainer of life and to those in the pursuit of knowledge.

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My greatest appreciation goes to God, the author and finisher of my faith. My greatest help in times of need. It was by His grace that I got to this point, and by His grace shall I continue forward.

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Statute of the International Court of Justice

United Nations Charter

United Nations Charter, 1994

Victoria De Jure Belli, 1539

Vienna Convention on the Law of Treaties, 1969

LIST OF ABBREVIATIONS

CTBT - Comprehensive Test Ban Treaty

ECOWAS - West Africa the Economic Commission of West African States

ICJ - International Court of Justice

INF - Intermediate-Range Nuclear Forces Treaty

NGO - Non-Governmental Organization

SC – Supreme Court

UN - United Nations

WTO - World Trade Organization

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ABSTRACT

International law plays a crucial role in governing relations between states, addressing issues such as human rights, conflict resolution, trade, and environmental protection. However, its efficacy remains a subject of contention due to significant challenges in implementation and institutional limitations. While international law is designed to promote global order and cooperation, its enforcement is often inconsistent, primarily due to the principle of state sovereignty, which allows nations to selectively comply with legal obligations. This lack of a centralized enforcement mechanism weakens the authority of international legal norms and limits their effectiveness in resolving global disputes. One of the key challenges of implementation lies in the voluntary nature of compliance. Unlike domestic legal systems, international law lacks a supranational authority capable of enforcing rulings and ensuring uniform adherence. Powerful states often disregard international legal decisions, while weaker states are pressured into compliance, leading to a disparity in enforcement. Additionally, international institutions such as the United Nations, the International Criminal Court, and the International Court of Justice face political interference, funding constraints, and bureaucratic inefficiencies that hinder their ability to uphold international legal standards effectively. Furthermore, the ambiguity and inconsistencies in international legal provisions create challenges in interpretation and application. Conflicts between national legal systems and international obligations further complicate enforcement, as states prioritize domestic laws over international commitments. Moreover, international law has been slow to adapt to emerging global challenges, such as cyber warfare, artificial intelligence, and transnational terrorism, limiting its ability to address contemporary issues effectively. This study critically examines these flaws, focusing on mainstream international law rather than specialized areas. It provides a broad overview of the systemic weaknesses affecting the implementation and enforcement of international legal norms. By highlighting these challenges, the study contributes to ongoing discussions on legal reform, institutional restructuring, and the need for stronger mechanisms to enhance the effectiveness of international law in the modern world.

CHAPTER ONE

INTRODUCTION

1.1 Background to the Study

International law, also known as public international law, is the set of rules, agreements, and treaties that govern the relations between nations, international organizations, and individuals across national boundaries. It aims to promote peace, security, and cooperation among nations, while also protecting human rights and preventing conflicts.

International law is a complex and multifaceted system encompassing various branches, including treaty law, customary international law, and general principles of law. Treaty law refers to the agreements and treaties signed by nations, while customary international law is based on the practices and customs of nations over time. General principles of law, on the other hand, are fundamental principles that are recognized by all nations, such as the principle of sovereignty and the principle of non-interference.

International law put simply, is the law that governs interactions between different states¹.

International law serves as the bridge that must be crossed by any nation that seeks to establish, foster or continue relations with any and all other nations. Chayes and Chayes² emphasize that compliance with international law is not merely a legal obligation but also a political and social process. It has been conceptualized and defined by many authorities. However the general idea in most, if not all, of these

¹ 'Understanding International Law' United Nations 2011 Treaty Event Towards Universal Participation and Implementation

² Chayes and Chayes, (1995) The New Sovereignty: Compliance with International Regulatory Agreements

definitions is that International law is a set of rules and principles governing the relations and conduct of sovereign states with each other, as well as with international organizations and individuals¹. It extends to cover many aspects and categories including trade, human rights, diplomacy, environmental preservation, and war crimes. And there exist various international bodies that look after and oversee these various issues such as the United Nations(UN), the World Trade Organization (WTO) and in west Africa the Economic Commission of West African States (ECOWAS).

Chayes and Chayes (1993) emphasize that compliance with international law is not merely a legal obligation but also a political and social process. Their analysis highlights that states may face various barriers to compliance, including domestic political pressures and resource constraints.

There's plenty of background behind the nature and formation of international law, dating as far back to scholars of natural law such as Thomas Aquinas and Francisco de Vitoria², and even further back as one of the earliest recorded international agreements was between Egypt and the Hittite Empire³.

However international law as we see it today was greatly influenced by forces such as Hugo Grotius⁴, considered the father of international law, also the League of Nations⁵, established to keep the peace after World War 2, and also the United Nations Charter, which reaffirmed sovereignty, non-interference and self-determination⁶.

International law plays a crucial role in maintaining international peace and security, promoting international cooperation, and protecting human rights. It provides a

¹ Legal Information Institute 'International Law' Cornell Law School

² Victoria De Jure Belli, 1539

³ Korean Journal of International Studies, 2017

⁴ Grotius, Mare Liberum, 1609

⁵ Covenant of the League of Nations, 1920

⁶ United Nations Charter, 1994

framework for nations to engage in diplomatic relations, resolve disputes peacefully, and cooperate on issues such as trade, health, and the environment all backed by relevant legal provisions. International law also sets standards for the treatment of individuals, including displaced people and refugees, prisoners of war, and civilians in armed conflicts.

I believe it is safe to say that without international law, there would be chaos as it defines a state's legal responsibilities in its conduct among other states and in the treatment of its civilians¹.

Moreover, international law promotes accountability and responsibility among nations. It holds nations accountable for their actions, and provides mechanisms for individuals and groups to seek redress for human rights violations. The International Court of Justice (ICJ), for example, is the primary judicial organ of the United Nations, and has the power to settle disputes between nations and interpret international law.

1.2 Statement of Problem

Despite its importance, international law faces several challenges that not only threaten to, but actually succeed in undermining its effectiveness.

One of the major challenges is the lack of a centralized enforcement mechanism. Unlike domestic law there is no police force to enforce international law and the idea of a prison system to discipline offending nations is preposterous and quite laughable. International law relies on the voluntary compliance of nations, and there is no

¹ 'Understanding International Law' United Nations 2011 Treaty Event Towards Universal Participation and Implementation

centralized authority to enforce its provisions. Although the idea of arresting an entire nation state might sound interesting, I believe it is quite implausible.

Another challenge facing international law is the issue of sovereignty. Nations are often reluctant to surrender their sovereignty to international institutions. Which is understandable in theory as the entire idea of sovereignty is that a nation be allowed to act without the interference of any outside body. The fear of losing the semblance of sovereignty causes more than a few nation states to resist attempts to impose international law on them. This can lead to conflicts between nations, and undermine the effectiveness of international law.

Furthermore, international law is often criticized for being ineffective in preventing conflicts and protecting human rights. A valid point, especially if one is to consider the international ruckus going on currently, involving Russia and Ukraine and even Israel and Pakistan topping that, the failure of international law to prevent the genocide in Rwanda, the war in Syria, and the human rights abuses in Myanmar, among others, has led to widespread criticism and disillusionment with the international legal system. However this seems to be more of an inability rather than a failure.

In addition, the rise of nationalism and the decline of multilateralism have also posed significant challenges to international law. The increasing trend of nations prioritizing their national interests over international cooperation and law has undermined the effectiveness of international law and its institutions.

In conclusion, international law plays a vital role in promoting peace, security, and cooperation among nations, while also protecting human rights. However, it faces significant challenges, including the lack of a centralized enforcement mechanism, the issue of sovereignty, and the criticism of being ineffective in preventing conflicts and protecting human rights. In recent years, these challenges have been brought into sharp relief by what unfortunately appears to be a range of high-profile crises, which many believe should've been avoided.

These challenges are critical to understanding the efficacy of international law, especially understanding its importance.

However, as earlier mentioned, the issues plaguing international law, upon closer inspection, appear to be inabilities rather than failures. As it seems as if the proverbial hands of the law were tied in many of these cases. Where then does the issue lie?

1.3 Research Question

The research question which this study seeks to answer is:

1. What are the challenges and limitations affecting the efficacy of international law in maintaining global peace and security?

1.4 Aim and Objectives

The aim of the study was to examine the implementation and institutional limitations of international law in regulating and maintaining global peace and security.

The objectives of the study were to:

1. identify and analyze the key challenges and limitations affecting the efficacy of international law, including political, economic, social, and institutional factors.
2. examine the role and effectiveness of international institutions, such as the United Nations, the International Court of Justice, and the International Criminal Court, in implementing and enforcing international law.
3. analyse case studies of specific international conflicts or crises, such as the Syrian Civil War, the Israeli-Palestinian conflict, or the Ukraine-Russia conflict, to illustrate the challenges and limitations of international law in practice.
4. compare and contrast the effectiveness of different international law frameworks, such as the Geneva Conventions, the Rome Statute, and the Paris Agreement, in addressing different types of global challenges.
5. provide recommendations for strengthening the efficacy of international law, including proposals for institutional reform, enhanced enforcement mechanisms, and improved compliance strategies.

1.5 Scope and Limitations of the Study

Scope

This study focuses on identifying the inherent flaws in international law that prevent it from functioning effectively as a binding and enforceable legal system. It will critically examine the structural weaknesses, political constraints, and institutional shortcomings that hinder the implementation of international legal norms. The study will explore:

1. Lack of Enforceability – International law often lacks a centralized enforcement mechanism, relying on voluntary compliance by states. The absence of a global authority with coercive power limits its effectiveness.
2. State Sovereignty vs. Legal Obligations – The principle of state sovereignty allows nations to reject international legal obligations, undermining the universality of international law.
3. Selective Compliance and Power Imbalances – Powerful states often disregard international legal rulings, while weaker states are pressured into compliance, creating an imbalance in enforcement.
4. Institutional Weaknesses – Global institutions such as the UN, ICC, and ICJ struggle with inefficiency, lack of funding, and political interference, which reduces their ability to implement international law effectively.
5. Ambiguity and Inconsistencies – The broad and sometimes vague nature of international legal provisions makes interpretation and application inconsistent across different jurisdictions.
6. Conflicts Between National and International Law – Many states prioritize domestic laws over international commitments, leading to conflicts in legal interpretation and enforcement.
7. Evolving Global Challenges – International law has been slow to adapt to emerging issues such as cyber warfare, artificial intelligence, and transnational terrorism, further limiting its efficacy.

Limitations

This research will be limited to mainstream international law, focusing on general principles, treaties, and customary international law rather than highly specialized or

technical areas. The study will not provide an in-depth examination of niche fields such as space law, environmental law, or maritime law but will reference these areas as needed to illustrate broader systemic issues.

Additionally, the research will primarily serve as a summarization of international law as a whole, rather than a deep dive into specific legal cases or historical precedents. While different aspects of international law (such as human rights, trade law, or conflict resolution) will be considered, they will be discussed in relation to the overall structural flaws rather than as standalone topics.

By maintaining this broad approach, the study aims to provide a comprehensive overview of the fundamental weaknesses of international law while acknowledging that a more detailed analysis of specific areas would require separate research.

1.6 Significance of the Study/Research

This aim of this study is to contribute to the existing body of research on international law and global governance as an effort to provide a comprehensive analysis of the challenges and limitations affecting the efficacy of international law. Its findings and recommendations will be relevant to scholars, practitioners, and policymakers seeking to strengthen the role of international law in maintaining global peace and security. Aside from that identifying and calling out issues of implementation can have very positive and crucial effects, including:

1. Identifying Systemic Issues

Implementation challenges often reflect deeper systemic issues within the legal framework. Zurn¹ discusses how structural barriers, such as political instability, economic disparities, and social inequalities, can easily hinder effective implementation. By analyzing these systemic issues, researchers can identify the root causes of non-compliance and propose targeted solutions.

Moreover, implementation challenges frequently highlight inequalities among states, particularly between developed and developing nations. R. A. (2015)² argues that disparities in power and resources can lead to unequal compliance with international obligations. Understanding these dynamics is crucial for developing equitable solutions that promote global justice.

2. Informing Policy and Reform

Studying implementation challenges provides valuable insights for policymakers and legal practitioners. Evidence-based policy making is essential for creating effective legal frameworks that address the complexities of international law.

On top of that, identifying implementation challenges allows for the formulation of actionable recommendations for improvement. Many articles discuss how understanding these challenges can lead to meaningful reforms in international law, ultimately enhancing its effectiveness and relevance in a rapidly changing global landscape.

¹ T. Zurn, (2010) *The Globalization of World Politics: An Introduction to International Relation*

² Republic Act No. 10688. October 20, 2015

1.7 Research Methodology

This study will employ a mixed-methods approach, combining qualitative and quantitative research methods. It will involve:

1. A comprehensive literature review of existing research on international law, global governance, and international relations.
2. In-depth case studies of specific international conflicts or crises.
3. Comparative analysis of different international law frameworks.
4. Quantitative analysis of data on international conflicts, human rights violations, and compliance with international law.

1.8 Chapters Analysis

This work is arranged in a manner as to enable proper analysis on the part of the writer and proper comprehension on the part of the readers. The chapter arrangement is as follows:

Chapter 1: Introduction

Chapter 2: Analysis of Conceptual Theoretical Framework, Definition of Terms and Literature Review

Chapter 3: Analysis of International Legal Framework and how it Affects the Efficacy of International Law

Chapter 4: Summary

CHAPTER TWO
ANALYSIS OF CONCEPTUAL THEORETICAL FRAMEWORK,
DEFINITION OF TERMS AND LITERATURE REVIEW

2.1 Introduction

As discussed in chapter one earlier, international law plays a crucial role in maintaining global peace and security, promoting cooperation among states, and protecting human rights. However, the effectiveness of international law in achieving these goals is a subject of ongoing debate among scholars, policymakers, and practitioners. And in recent years, these challenges have been brought into sharp relief by a range of high-profile crises, from the conflict in Ukraine and the migrant crisis in Europe, to the ongoing pandemic and the growing threat of climate change. These crises have highlighted the need for effective international cooperation and the importance of a robust and resilient international legal system..

The study of any subject relies heavily on the understanding and conceptualization of terms. And a study such as this, focused on international law, has to rely greatly on the use of key terms and concepts, such as "international law," "efficacy," "implementation," and "institutional limitations", among others. However, these terms are often used loosely or inconsistently, which can lead to confusion and miscommunication.

This chapter is aimed at providing a comprehensive analysis of the definition and conceptualization of these international law terminology. By examining the different definitions and conceptualizations that already exist, summing them up and drawing a

conclusive understanding of these terms. This chapter aims to provide a clearer understanding of the concepts that underpin the study of international law.

This chapter is significant because it provides a foundation for the rest of the essay. By establishing clear definitions and conceptualizations of key terms, this chapter enables a more nuanced and accurate analysis of the topic in subsequent chapters.

The remainder of this chapter will examine the definition and conceptualization of key terms in international law. Section 1.2 will explore the different definitions of international law, while Section 1.3 will examine the conceptualization of efficacy. Section 1.4 will discuss the definition of implementation and institutional limitations, and Section 1.5 will conclude the chapter by summarizing the key findings and implications for the study of international law.

2.2 Definition of International Law

One of the most popular definitions coined by Jeremy Bentham¹, an English philosopher, is that international law is the body of legal rules, norms, and standards that apply between sovereign states and other entities that are legally recognized as international actors².

International actors being a term with an extended reach and meaning to cover all other international bodies that may not be nation states but have dealings across borders and maintain a strong international presence. This is a term that will be utilized quite a bit throughout this essay.

¹ (1748–1832)

² M. N. Shaw (2017) 'Law of Nations, Public International Law'

Hugo Grotius, a popularly referred to as the father of modern international law and the author of the title *Mare Liburum*¹ or Freedom of the Sea. He gave a rather simple and straight to the point definition. He stated that ‘International law is an agreement between nations’. and further added that ‘There is no law that is respected and enforced uniformly without fear or favour’.

This definition showcases the nature of international law as more a series of agreements and treaties than it being any other sort of conventional law.

Interestingly enough, there's no particular charter, treaty, statute or policy that directly defines international law. This technically renders international law as being a mere concept rather than an actual body of rules. But per the Supreme Court² technicality in the administration of justice shuts out justice. In other words, we would not be focusing on this technicality.

Additionally, International law is a complex field with many aspects that has been defined in various ways by scholars, jurists, and international organizations. At its core, international law refers to the set of rules, norms, and principles that govern the interactions between states, international organizations, and individuals across national borders, per Brownlie³. However, the precise definition of international law has been the subject of ongoing debate and discussion. A few approaches have emerged so far, which will be discussed briefly

¹ Ibid, (Page 2)

² *Akeredolu v Abraham & Ors* (2018) LPELR - 44067 (SC)

³ (2008)

Traditional Definition

The traditional definition of international law, also known as the "positivist" definition, views international law as a set of rules and norms created by states to regulate their interactions¹. This definition emphasizes the role of treaties, customs, and general principles of law as sources of international law. According to this definition, international law is a product of state consent and is binding only on those states that have explicitly agreed to be bound².

Modern Definition

A more modern definition of international law, also known as the "functional" definition, views international law as a dynamic and evolving system that regulates not only state-to-state relations but also the interactions between states, international organizations, and individuals³. This definition recognizes the growing importance of non-state actors, such as NGOs and multinational corporations, in shaping international law. According to this definition, international law is a complex system of rules, norms, and principles that are shaped by a variety of actors and factors.

Critical Perspectives

Critical perspectives on international law, such as feminist, postcolonial, and critical legal studies, challenge traditional notions of international law and its definition⁴. These perspectives argue that international law has been used as a tool of oppression, marginalization, and domination, and that its definition should be broadened to

¹ H. Kelsen, (1952). *Principles of International Law*. Rinehart.

² L. Oppenheim, (1905). *International Law: A Treatise*. Longmans, Green and Co

³ M. Koskenniemi, (2001). *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870-1960*. Cambridge University Press

⁴ H. Charlesworth, H., & C. Chinkin, (2000). *The Boundaries of International Law: A Feminist Analysis*. Manchester University Press.

include the experiences and perspectives of marginalized groups. According to these perspectives, international law is not a neutral or objective system of rules, but rather a complex web of power relations that reflects and reinforces existing social and economic inequalities.

To comment on this particular conception of international law, I would say that while there's an argument to be made about the largely subjective nature of international law as compared to the jurisprudence behind it which aims towards a more objective system of rules, it must also be stated that this view is quite a bit limited and subjective, I may go even as far as to declare it as shortsighted. That might be a bit harsh though. The fact or assumption that the law doesn't favour a certain group or demographic doesn't render its nature as being bad, nor does it portray said law as being a tool for exploitation. In the end the law itself has no alliances, it is simply the law. This is however a discussion for a different topic.

Implications of Different Definitions

The different definitions of international law have significant implications for its study and practice. For example, the traditional definition may lead to a focus on state-centric approaches to international law, while the modern definition may emphasize the importance of non-state actors and transnational regulation¹. Critical perspectives may challenge the very foundations of international law and its role in maintaining global power dynamics.

In conclusion, the definition of international law is complex and multifaceted. Different definitions emphasize different aspects of international law, such as its

¹ A. M. Slaughter (2004). A New World Order. Princeton University Press

sources, scope, or purpose. Understanding these different definitions is essential for a nuanced and accurate analysis of international law as a subject and as a concept as well as its role in regulating global interactions. As we move forward in this essay, it is essential to keep these different definitions in mind and to consider how they shape our understanding of international law and its efficacy.

2.3 Conceptualization of Efficacy

Efficacy is a complex and therefore interesting concept. And that it's been defined and conceptualized in various ways across different disciplines. According to the Merriam Webster Dictionary, efficacy is simply the power to produce an effect.

In the context of international law, efficacy refers to the ability of international law to achieve its intended goals and objectives, such as promoting peace, security, and cooperation among states, protecting human rights, and regulating international relations, among others and as outlined in Chapter one of this essay.

2.3.1 Defining Efficacy

Efficacy can be defined in relation to the extent to which international law is able to:

1. Influence state behavior: Efficacy can be measured by the extent to which international law influences the behavior of states, including their compliance with international norms, treaties, and agreements¹.
2. Regulate international relations: Efficacy can also be measured by the extent to which international law regulates international relations, including the resolution of conflicts, the promotion of cooperation, and the protection of human rights².

¹ Louis Henkin, *How Nations Behave: An Introduction to the Law of International Relations* (2nd Edition). Pg 47

² Kelsen 'Principles of International Law' 1952. p.15

3. Achieve its intended goals: Efficacy can be measured by the extent to which international law achieves its intended goals, such as promoting peace, security, and cooperation among states¹. This seems most in line with the merriam webster definition we considered earlier.

2.3.2 Dimensions of Efficacy

Efficacy can be conceptualized in terms of several dimensions, including:

1. Normative efficacy: This refers to the extent to which international law establishes clear and consistent norms, principles, and standards for state behavior. This principle was examined thoroughly by Franck².

2. Behavioral efficacy: This refers to the extent to which international law influences the behavior of states, including their compliance with international norms, treaties, and agreements³.

3. Regulatory efficacy: This refers to the extent to which international law regulates international relations, including the resolution of conflicts, the promotion of cooperation, and the protection of human rights⁴.

4. Impact efficacy: This refers to the extent to which international law achieves its intended goals, such as promoting peace, security, and cooperation among states. This view though not directly addressed, was properly referenced by Anne-Marie Slaughter in her article⁵.

¹ Oppenheim International Law: A Treatise. P. 23

² Thomas M. Franck The Power of Legitimacy, 1990

³ Chayes and Chayes 'The New Sovereignty: Compliance with International Regulatory Agreements'

⁴ Martti Koskenniemi "The Gentle Civilizer of Nations: The Rise and Fall of International Law, 1870–1960" 2001

⁵ A. Slaughter 'The Idea of the West and the Real World'

2.3.3 Factors Influencing Efficacy

Several factors can influence the efficacy of international law, including:

1. State compliance: According to Henkin¹, the extent to which states comply with international norms, treaties, and agreements is a critical factor in determining the efficacy of international law.
2. International institutions: Kelsen² explained that the strength and effectiveness of international institutions, such as the United Nations, can influence the efficacy of international law.
3. Normative clarity: The clarity and consistency of international norms, principles, and standards can influence the efficacy of international law. Franck³.
4. Enforcement mechanisms: The availability and effectiveness of enforcement mechanisms, such as sanctions and dispute settlement mechanisms, can also influence the efficacy of international law.

2.3.4 Measuring Efficacy

Measuring the efficacy of international law can be challenging, but several approaches can be used, including:

1. Quantitative analysis: Quantitative analysis can be used to measure the extent to which states comply with international norms, treaties, and agreements⁴
2. Qualitative analysis: Qualitative analysis can be used to assess the normative clarity, behavioral efficacy, and regulatory efficacy of international law⁵.

¹ Ibid(Pg 14)

² Ibid(Pg 15)

³ Ibid(Pg 15)

⁴ Louis Henkin, *How Nations Behave: An Introduction to the Law of International Relations*(2nd Edition). Pg 47

⁵ Ibid(Pg 15)

3. Case studies: Case studies can be used to examine the efficacy of international law in specific contexts, such as conflict resolution or human rights protection.

By conceptualizing efficacy in terms of its dimensions, factors, and measurement approaches, one can then gain a deeper understanding of the efficacy of international law and its ability to achieve its intended goals.

2.4 Definition of Implementation and Institutional Limitations

Implementation and institutional limitations are critical concepts in understanding the efficacy of international law. Implementation refers to the process of putting international law into practice, while institutional limitations refer to the constraints and challenges faced by international institutions in enforcing and implementing international law.

2.4.1 Definition of Implementation

Implementation can be defined as the process of translating international law into domestic law and practice¹. This involves the adoption of domestic legislation and policies that give effect to international law, as well as the establishment of institutions and mechanisms for enforcing and implementing international law.

2.4.2 Types of Implementation

Implementation comes in several flavors, including:

1. Legislative implementation: This involves the adoption of domestic legislation that gives effect to international law (Franck, 1990, p. 24).

¹ H. Kelsen, (1952). Principles of International Law. Rinehart. Pg 15

2. Executive implementation: Chayes¹ developed a theory which suggests that executives are more likely to implement international law when they believe it is in their best interest to do so. The interest may arise due to a variety of factors, such as the desire to maintain good relations with other states, to promote economic cooperation, or to protect national security interests. Additionally, international institutions can play a role in encouraging executive implementation by providing information, technical assistance, and political support. The United Nations, for instance, are known for providing resources and reliefs to insolvent nations, this acts may cause the executives of such nations to sway more easily, in most cases, when it comes to accepting international law.

However, Chayes² also acknowledged that there are limits to the ability of international law to constrain state behavior. States could very likely prioritize their own national interests over international obligations, and they may resist pressure from international institutions to comply with international law. Therefore, executive implementation of international law is perhaps a mixed bag and is not always guaranteed. This understanding proves that it is also important to consider the political and strategic context in which implementation takes place.

3. Judicial implementation: This involves the implementation of international law through judicial decision-making, such as the interpretation and application of international law by domestic courts.

¹ A. Chayes, & A. H Chayes. (1995). *The New Sovereignty: Compliance with International Regulatory Agreements*. Harvard University Press.

² Ibid

Koskenniemi¹, in his work acknowledges the role of judges in shaping international law through their interpretations and applications of treaties and customary norms. However, he strictly cautions against viewing judicial decisions as purely legal exercises, as they may not be entirely detached from political and social contexts. He emphasizes that judges' decisions are influenced by various factors, including their own ideological leanings, the political pressures they face, and the broader power dynamics within the international system.

2.4.3 Institutional Limitations

Anne Slaughter² explains institutional limitations to refer to the constraints and challenges faced by international institutions in enforcing and implementing international law. These limitations can include:

1. Lack of enforcement powers: International institutions lack the power to enforce international law, they then have to rely instead on states to take action.
2. Limited resources: International institutions may encounter issues due to limited resources, and this includes both funding and personnel, which can limit their ability to implement and enforce international law.
3. Political constraints: In quite a few situations international institutions face political constraints, including opposition from states or other actors, which limit their ability to implement and enforce international law.

¹ M. Koskenniemi "The Gentle Civilizer of Nations: The Rise and Fall of International Law, 1870–1960" 2001

² A. Slaughter 'The Idea of the West and the Real World' 2008

2.4.4 Factors Influencing Implementation and Institutional Limitations

Several factors can influence implementation and institutional limitations, including:

1. State cooperation: The level of cooperation from states can significantly influence the effectiveness of implementation and the ability of international institutions to overcome institutional limitations.
2. International norms and standards: The clarity and consistency of international norms and standards can influence the effectiveness of implementation and the ability of international institutions to overcome institutional limitations. Koskenniemi¹ in his work sought to give people the understanding that a more universal system of interpreting laws would do a lot of good towards increasing the effects and application of these laws.
3. Institutional design: The design of international institutions, including their structure, powers, and decision-making processes, can influence their ability to implement and enforce international law.

In conclusion, implementation and institutional limitations are critical concepts in understanding the efficacy of international law. By understanding the different types of implementation and the institutional limitations faced by international institutions, we can better appreciate the challenges and opportunities facing international law in achieving its intended goals.

¹ M. Koskenniemi "The Gentle Civilizer of Nations: The Rise and Fall of International Law, 1870–1960" 2001

2.5 Conceptualization of Sovereignty in International Law

Sovereignty is a fundamental concept in international law, and it refers to the supreme authority of a state over its territory and population. Ian Brownlie¹ explained that the concept of sovereignty is principal to the principles of statehood, independence, and self-governance.

2.5.1 Definition of Sovereignty

Adopting the definition given by Oppenheim², Sovereignty can be defined as the "exclusive and absolute authority of a state within its territory". This definition encompasses two key elements:

1. Internal sovereignty: The supreme authority of a state over its internal affairs, including its territory, population, and institutions.
2. External sovereignty: The independence of a state from external interference or control, including its relations with other states and international organizations.

Essentially, sovereignty involves a state being in total control of its internal affairs, to the absolute exclusion of all outside, or in this case, international interference.

2.5.2 Dimensions of Sovereignty

Sovereignty can be conceptualized in terms of several dimensions, including:

1. Territorial sovereignty: Kelsen³ explains this to be the exclusive authority of a state over its territory, including its land, sea, and air space.

¹ I. Brownlie, (2008). Principles of Public International Law. Oxford University Press

² L. Oppenheim, (1905). International Law: A Treatise. Longmans, Green and Co.

³ Ibid

2. Personal sovereignty: This refers to the authority of a state over its citizens and nationals, including their rights and obligations.
3. Functional sovereignty: The authority of a state to perform specific functions, such as regulating international trade or protecting the environment.

2.5.3 Limitations on Sovereignty

Almost ironically, while sovereignty is a fundamental principle of international law, it is not absolute. Several limitations on sovereignty exist, including:

1. International law: States are bound by international law, including treaties, customs, and general principles of law. However, this is usually subject to signing and ratification by states. Sovereignty still protects states from laws which they do not agree with.
2. International institutions: States may be subject to the authority of international institutions, such as the United Nations or the International Court of Justice.
3. Human rights: States are bound by international human rights law, which limits their authority to act in certain ways.

2.5.4 Challenges to Sovereignty

Several challenges to sovereignty exist in contemporary international law, including:

1. Globalization: “The world is now a global village”¹ The increasing interconnectedness of the world economy and society challenges traditional notions of sovereignty. With factors such as tourism, remote working and similar factors,

¹ M. McLuhan ‘The Gutenberg Galaxy: The Making of Typographic Man’ 1962

international tax and international crime. It makes it hard to know where one nation's sovereignty ends and that of another begins.

2. International terrorism: The threat of international terrorism challenges the ability of states to maintain their sovereignty and security.

3. Climate change: The global nature of climate change challenges the ability of states to maintain their sovereignty and address this global problem. As pressure is mounted on various states, it pushes on the boundaries and limits of national sovereignty.

In conclusion, sovereignty is a principal concept in international law. Especially as one of the goals on international law is promoting national sovereignty. It's a bit of an irony that sovereignty has come to become a source of hindrance to the efficacy of international law. However, understanding the dimensions, limitations, and challenges to sovereignty is essential for analyzing the role of states in the international system.

2.6 Chapter Conclusion

This chapter has provided an overview and insight into some of the fundamental principles and concepts of international law which are important to this study.

The concepts explored in this chapter, including efficacy, implementation, sovereignty, and the relationship between international and municipal law, are essential for understanding the role of international law in promoting peace, security, and cooperation among states.

This chapter's focus is important, as it is important to build a solid foundation for understanding the complexities of international law. By grasping the fundamental principles and concepts explored in this chapter, readers would be better equipped to analyze the role of international law in the international system, and to understand the challenges and opportunities that arise in this context.

Conclusively, this chapter provides a vital foundation for understanding the principles, concepts, and challenges of international law. Its importance lies in its provision of a comprehensive framework for analyzing the role of international law in promoting peace, security, and cooperation among states, and for evaluating the effectiveness of international law in achieving its intended goals and objectives.

CHAPTER THREE
ANALYSIS OF INTERNATIONAL LEGAL FRAMEWORK AND HOW IT
AFFECTS THE EFFICACY OF INTERNATIONAL LAW

3.1 Introduction

Having understood that the efficacy of international law is a pressing concern in today's globalized world. And having also learned about the crucial role international law plays in promoting peace, security, and cooperation among states. We now also understand that we are not alone in wondering about this topic, as the effectiveness of international law in achieving its intended goals and objectives is often called into question by various schools of thought, legal theorists, jurists and even many who are not native to the legal space such as journalists and the like. I believe it's safe to declare, it's a global issue.

At this point in the study, we've also analyzed some of the complexities of international law, including the principles of sovereignty, the sources of international law, and the role of international institutions, and how they all impact the efficacy of international law. The principle of sovereignty, for example, creating challenges for international law, as states are usually reluctant to cede their sovereignty to international institutions. Furthermore, the sources of international law, including treaties, customary international law, and general principles of law, can be unclear or conflicting, leading to difficulties in interpretation and application.

Understanding also the challenges posed by globalization, terrorism, and climate change have highlighted the need for a more effective and responsive international legal system. The world is now interconnected on an unprecedented scale. And this connection of world economy and society has created new opportunities for

cooperation and collaboration, but also new challenges for international law. The threat of international terrorism, for example, has required international law to adapt and respond to new forms of violence and insecurity. But so far, one cannot argue that such adaptations have been inadequate. As it stands there are no less than 32 conflicts ongoing in the world¹. Some other sources number as many as 56, while this discrepancy lends credence to the fact that the idea of conflict is also quite subjective, it is enough proof to show that conflict does in fact exist.

This chapter, as an analysis, will examine the legal and institutional framework concerning the issue at hand, that is, efficacy of international law. It will explore the sources of international law including treaties, charters and declarations, the role of international institutions, enforcement mechanisms and state responsibility. And this will be done by analyzing these key aspects of international law, this study aims to provide a comprehensive understanding of the gears of the international regulatory machine by digging into the legal and institutional framework on international law.

3.2 Sources of International Law

I. Treaties

Definition and Characteristics of Treaties

A treaty is a formal agreement between two or more states, international organizations, or other entities that are subjects of international law². Treaties are typically written documents that outline the rights and obligations of the parties involved.

Key Characteristics of Treaties:

¹ Global Citizens Facts

² A. Aust, (2013). Modern Treaty Law and Practice. Cambridge University Press.

1. Formal Agreement: Treaties are formal agreements that are negotiated, signed, and ratified by the parties involved. And just as with any contract, there must be a consensus or meeting of minds.
2. Written Document: Treaties are typically written documents that outline the terms and conditions of the agreement¹.
3. Binding Force: Treaties have binding force on the parties that sign and ratify them².
4. International Law: Treaties are considered a source of international law and are governed by the principles of international law.

Types of Treaties

There are several types of treaties, including:

1. Bilateral Treaties: Bilateral treaties are agreements between two states or entities³.
2. Multilateral Treaties: Multilateral treaties are treaties made, signed and/or ratified by multiple states or entities. It has to be three or more states or entities involved for a treaty to be qualified as being multilateral.
3. Law-Making Treaties: Law-making treaties are treaties that create new rules or norms of international law, for instance the Vienna Convention on the Law of Treaties, 1969⁴.
4. Contractual Treaties: Contractual treaties are treaties that establish specific rights and obligations between the parties involved (Shaw, 2017, p. 125).

It must be noted that not all international treaties are contractual treaties, but they are similar in that they establish rights and obligations for the parties involved.

¹ Vienna Convention on the Law of Treaties, 1969, Art. 2

² International Court of Justice, 1950, Advisory Opinion on the Interpretation of Peace Treaties

³ Malcolm N. Shaw 2017 *International Law*, 2017

⁴ Vienna Convention on the Law of Treaties, 1969, Art. 11

Malcolm Shaw shared his insights on contractual treaties. He explained that contractual treaties are agreements between states that create specific rights and obligations. These treaties are based on the principle that agreements must be kept. They are binding on the parties involved and are considered a primary source of international law.

Some of the key points that can be gathered from Shaw's work include:

Nature and Formation: Contractual treaties are formed through the express or implied consent of the parties involved. They can be bilateral or multilateral.

Binding Force: Once a treaty is in force, it is binding on the parties. This means that the parties are duty-bound to comply with the terms of the treaty.

Interpretation: Treaties are interpreted according to their terms and in light of their object and purpose. The Vienna Convention on the Law of Treaties¹ provides much more guidance on the interpretation of treaties.

Termination: as with all contracts, treaties can be terminated in a number of ways, including by agreement of the parties, by material breach, or by supervening impossibility.

The Treaty-Making Process

The treaty-making process typically involves several stages:

1. **Negotiation:** The official initiation stage, where parties involved negotiate the terms and conditions of the treaty.

¹ Ibid

2. Signature: The parties are required to sign the treaty, indicating their intention to be bound by its terms.

3. Ratification: The parties ratify the treaty, which involves obtaining the necessary domestic approvals and deposits the instrument of ratification with the depositary.

In international law, a depositary is an international organization or state that is responsible for receiving instruments of ratification for a multilateral treaty. The depositary's responsibilities include: Receiving instruments of accession, Receiving instruments of reservation, Receiving instruments of signature, and Notifying all relevant parties after receipt of the instruments.

4. Entry into Force: The treaty enters into force, which means that it becomes legally binding on the parties involved.

The date and time a treaty enters into force is determined by the treaty's provisions or by agreement between the negotiating states¹.

The Importance of Treaties

Treaties remain one of the most common ways of entering into international relations. They thus play a crucial role in shaping international relations and promoting cooperation between states and other international actors. To highlight some of the important areas treaties play key roles:

1. Establishing International Norms: Treaties establish international norms and standards that govern the behavior of states and other international actors².

¹ Vienna Convention on the Law of Treaties, 1969, Art. 24

² I. Brownlie, (2008). Principles of Public International Law. Oxford University Press.

2. Promote Cooperation: Treaties promote cooperation between states and other international actors on a range of issues, from trade and commerce to human rights and disarmament¹.

3. Provide a Framework for Dispute Settlement: Treaties provide a framework for dispute settlement, which helps to prevent conflicts and promote peaceful resolution of disputes².

Challenges and Limitations of Treaties

Despite their importance, treaties also several challenges and limitations.

1. Enforcement: Treaties can be difficult to enforce, particularly when one or more parties fail to comply with their obligations³. As I stated in chapter 1 of this work, its highly implausible to arrest a nation or even an international organization. While there are sanctions for breach or refusal to comply, there are not really effective in application.

2. Interpretation: Treaties can be subject to different interpretations, which can lead to disputes and conflicts. Koskenniemi⁴ already identified interpretation as one of issues affecting international law, this issue plagues even treaties.

3. Amendment and Revision: Treaties can be difficult to amend or revise, which can make it challenging to adapt to changing circumstances.

Here are some real-world examples of treaties that have failed to enforce obligations:

¹ Malcolm N. Shaw 2017 International Law

² Vienna Convention on the Law of Treaties, 1969, Art. 33

³ Malcolm N. Shaw 2017 International Law p. 150

⁴ M. Koskenniemi "The Gentle Civilizer of Nations: The Rise and Fall of International Law, 1870–1960" 2001

I. The Kyoto Protocol (1997): This international agreement aimed to reduce greenhouse gas emissions. While many developed countries ratified it, notable absences like the United States and later Canada weakened its overall impact. Some signatories also failed to meet their emission reduction targets.

II. The Comprehensive Test Ban Treaty (CTBT): This treaty prohibits all nuclear explosions, but it has not entered into force due to the lack of ratification by key nuclear powers like the United States and China. This has led to continued underground nuclear testing by some countries.

III. The Iran Nuclear Deal (2015): This agreement aimed to limit Iran's nuclear program in exchange for lifting sanctions. However, the United States withdrew from the deal in 2018, re-imposing sanctions and leading Iran to gradually abandon its commitments.

IV. The Intermediate-Range Nuclear Forces Treaty (INF Treaty): This Cold War-era agreement banned land-based missiles with ranges between 500 and 5,500 kilometers. However, the United States withdrew from the treaty in 2019, citing Russian violations, leading to renewed tensions and an arms race in this category of weapons.

These examples illustrate the challenges of enforcing international treaties. Factors such as lack of political will, disagreements over interpretation, and the absence of effective enforcement mechanisms can all contribute to the failure to uphold treaty obligations.

Definition and Characteristics of Customary International Law

Customary international law refers to the unwritten rules and principles that have developed through the consistent practices of states over time. These rules and principles are considered binding on all states, regardless of whether they have explicitly agreed to them¹. Customary international law is one of the primary sources of international law

Key Characteristics of Customary International Law:

1. State Practice: Customary international law is based on the consistent practice of states over time. This is one of the two pillars which the standard of customary international law stands on.
2. Opinio Juris: Customary international law requires that states act out of a sense of legal obligation, rather than mere convenience or habit² (). Opinio Juris refers to the fact that coupled with state practice, there must be a belief that the law is legally required.
3. Universality: Customary international law is considered binding on all states, regardless of whether they have explicitly agreed to it or not.

Formation of Customary International Law

As earlier mentioned, customary international law is formed through a process of state practice and opinio juris.

There Are Three Basic Steps To The Formation Of Customary International Law:

1. State Practice: States engage in consistent practice over time, such as granting diplomatic immunity to foreign diplomats.

¹ I. Brownlie,(2008). Principles of Public International Law. Oxford University Press. P.10

² International Court of Justice, 1969, North Sea Continental Shelf Cases

2. *Opinio Juris*: States begin to act out of a sense of legal obligation, rather than mere convenience or habit.
3. Recognition by the International Community: The international community recognizes the practice as a binding rule of customary international law.

Examples of Customary International Law

There are many examples of customary international law, including:

1. Diplomatic Immunity: The principle of diplomatic immunity, which grants foreign diplomats immunity from the jurisdiction of the host state (Shaw, 2017, p. 80).
2. The Prohibition on the Use of Force: The prohibition on the use of force, which is a fundamental principle of international law.
3. The Principle of Sovereign Equality: The principle of sovereign equality, which recognizes the equal sovereignty of all states.

Challenges and Limitations of Customary International Law

Despite its importance, customary international law also has several challenges and limitations.

Challenges and Limitations:

1. Difficulty in Establishing State Practice: It can be difficult to establish whether a particular practice has become a rule of customary international law (Shaw, 2017, p. 90).
2. Subjectivity of *Opinio Juris*: The requirement of *opinio juris* can be subjective, and it can be difficult to determine whether a state's actions are motivated by a sense of legal obligation.

3. Conflict with Treaty Law: Customary international law can conflict with treaty law, which can create uncertainty and inconsistency¹.

Definition and Characteristics of General Principles of Law

General principles of law refer to the fundamental principles that underlie all legal systems, including international law. These principles are inherent in the nature of the law itself and are therefore applicable to all states and international entities².

Key Characteristics of General Principles of Law:

1. Universality: General principles of law are considered to be universal and applicable to all states and international entities.
2. Fundamentality: General principles of law are fundamental to the nature of law itself and are therefore considered to be inherent in all legal systems. One won't be wrong to call them pillars of the law.
3. Abstraction: General principles of law are mostly concepts which are considered in the application of the law. They are abstract and can be applied to a wide range of situations and contexts.

Examples of General Principles of Law

There are many examples of general principles of law, including:

1. Pacta Sunt Servanda: The principle that treaties are binding on the parties that sign them and must be performed in good faith³.

¹ Nicaragua v. United States. International Court of Justice, 1986.

² I. Brownlie,(2008). Principles of Public International Law. Oxford University Press.

³ Vienna Convention on the Law of Treaties, 1969, Art. 26

2. Good Faith: Or the principle of 'no hidden knives'. This states that all international entities must act in good faith in their dealings with each other. This principle also allows for some peace of mind when entering into international dealings, especially ones backed by law
3. Sovereign Equality: The principle that all states are equal and sovereign, and are entitled to the same rights and privileges under international law.
4. Non-Discrimination: The principle that states and international entities must not discriminate against other states or entities on the basis of their nationality, race, or other characteristics.

Role of General Principles of Law in International Law

The crucial nature of the role general principles of law play in international law really comes to light, particularly in situations where there is no specific treaty or customary international law applicable to the situation.

Role of General Principles of Law:

1. Filling Gaps in International Law: General principles of law can be used to fill gaps in international law where there is no specific treaty or customary international law applicable to the situation.
2. Interpreting Treaties and Customary International Law: General principles of law serve in many cases as a basis for the interpretation of treaties and customary international law, and to provide guidance on their application.
3. Providing a Framework for International Relations: General principles of law can provide a framework for international relations, and can help to promote cooperation and stability among states and international entities.

Despite the importance of General Principles of International Law, there are a few shortcomings which have been identified by avid scholars. These shortcomings threaten to take much away from the purpose and effectiveness of the general principles. Some of which have been identified below:

Shortcomings

1. Lack of Clear Definition: General principles of international law are vague and lack clear definitions, making it difficult and subjective in practice and application.
2. Subjectivity: General principles of international law can be subjective and open to different interpretations, which creates conflicting views and inconsistency in application. This isn't helped by the fact that the application cases are limitless, creating confusing and conflicting legal scenarios which can confuse the application of the principles.
3. Enforcement Challenges: General principles of international law can be difficult to enforce, particularly in the absence of effective international institutions and mechanisms.

Judicial Decisions

Judicial decisions refer to the rulings and opinions of international courts and tribunals. These decisions can provide authoritative interpretations of international law and can help to establish new principles and rules. In essence, judicial decisions form up international case law. Judicial decisions are probably the most stable or should I say, well defined source of international law, as it involves the refinement of raw principles, treaties and other more raw sources of international law and putting them in a more definite and stable form

Types of Judicial Decisions

There are several types, or forms and levels of judicial decisions that can contribute to the development of international law, including:

1. International Court of Justice (ICJ) Decisions: The ICJ was established and draws power from the *Statute of the International of Justice*¹. It is the primary judicial organ of the United Nations and has jurisdiction over disputes between states. Its decisions are considered authoritative interpretations of international law.

2. International Criminal Court (ICC) Decisions: The ICC was formulated in 1998 by the *Rome Statute of the International Criminal Court*², and it has jurisdiction over international crimes such as genocide, war crimes, and crimes against humanity. Its decisions help to establish new principles and rules of international criminal law. Its decisions also help to retain and grant relevancy to existing principles.

3. World Trade Organization (WTO) Decisions: The WTO has jurisdiction over trade disputes between states. Its decisions help to establish new principles and rules of international trade law.

4. Arbitral Awards: there are numerous statutes in international law that encourage the use of arbitration and arbitral tribunals to settle disputes, including the *United Nations Charter*³. Hence, arbitral awards are decisions made by arbitral tribunals in disputes between states or between states and private parties. These awards can provide authoritative interpretations of international law.

Characteristics of Judicial Decisions

¹ Statute of the International of Justice, Chapter XIV of the United Nations Charter

² Rome Statute of the International Criminal Court, 17th July 1998 (2187 UNTS 3), OXIO 30

³ Article 33, UN Charter

Judicial decisions have several characteristics that make them an important source of international law, including:

1. **Authoritative Interpretation:** Judicial decisions provide an authoritative interpretation of international law, which, with the current state of affairs, serve as the most effective way to clarify ambiguous or unclear provisions.
2. **Binding Effect:** Judicial decisions are binding on the parties to the dispute, which can help to ensure compliance with international law.
3. **Persuasive Authority:** Judicial decisions can have persuasive authority, which means that they can influence the development of international law even if they are not binding on other states or parties.

Shortcomings of Judicial Decisions

Limited Binding Force: Unlike domestic legal systems where judicial precedent carries significant weight, international law lacks a strict doctrine of stare decisis. International judicial decisions work on a case by case basis¹. Decisions are generally binding only between the specific parties involved in a particular case. This limits their ability to shape future legal outcomes and to create consistent jurisprudence.

Non-Enforceability; while judicial decisions may be binding on relevant parties involved, not much can be said about how well it can be enforced. There are limited mechanisms for compelling compliance. There is precedence of a country simply refusing to comply with unfavourable judgments. And this remains a possibility in recent times as there remains no concrete method of enforcement besides relying on the good faith of the parties involved.

¹ Article 59 of the International Court of Justice Statute.

Political Influence: International judges, while striving for impartiality, are not immune to political pressures¹. The composition of international courts and tribunals can reflect the power dynamics of the international system, potentially influencing decision-making. Additionally, states may be reluctant to submit disputes to international courts if they fear unfavorable outcomes that could impact their political interests.

Limited Jurisdiction: International courts and tribunals often have limited jurisdiction, both in terms of the types of cases they can hear and the parties they can adjudicate. This can restrict the scope of their impact and leave many international disputes unresolved.

Procedural Challenges: International litigation can be complex and time-consuming, with procedural hurdles that can hinder access to justice. This can be particularly problematic for individuals or smaller states with limited resources and legal expertise.

Lack of Harmonization: International law is often fragmented, with various regional and international courts and tribunals operating with different rules and procedures. This lack of harmonization can create confusion and inconsistencies in the application of international law.

Limited Public Awareness: Public understanding of international law and its institutions can be limited, hindering public trust and support for the judicial process.

¹ M. Koskenniemi "The Gentle Civilizer of Nations: The Rise and Fall of International Law, 1870–1960" 2001

This can make it difficult to hold states accountable for violations of international law and promote a culture of compliance.

Despite these shortcomings, judicial decisions play a crucial role in shaping international law and promoting peaceful dispute resolution. Ongoing efforts to strengthen international courts and tribunals, enhance enforcement mechanisms, and increase public awareness are essential for addressing these challenges and ensuring the effective functioning of the international legal system.

Teachings

Teachings refer to the writings and opinions of renowned international law scholars and experts. These teachings can provide expert analysis and commentary on international law, which can help to clarify ambiguous or unclear provisions.

Types of Teachings

There are several types of teachings that can contribute to the development of international law, including:

1. **Academic Writings:** Academic writings by international law scholars and experts can provide in-depth analysis and commentary on international law. Such writings are of great importance, especially as quite a few have already been referenced in this work.
2. **Expert Opinions:** Expert opinions by renowned international law scholars and experts can provide authoritative guidance on international law.

3. International Law Textbooks: International law textbooks can provide a comprehensive overview of international law and can help to clarify ambiguous or unclear provisions.

Characteristics of Teachings

Teachings have several characteristics that make them an important source of international law, including:

1. Expert Analysis: Teachings provide expert analysis and commentary on international law, which can help to clarify ambiguous or unclear provisions.
2. Influence on International Law: Teachings can influence the development of international law by providing guidance on new principles and rules.
3. Persuasive Authority: Teachings can have persuasive authority, which means that they can influence the development of international law even if they are not binding on states or parties.

The teachings of the most highly qualified publicists of the various nations, while recognized as a subsidiary means for the determination of rules of law, have several shortcomings as a source of international law:

Subordinate Status: Teachings are explicitly listed as a "subsidiary means" in the *Statute of the International Court of Justice*¹, indicating that they are not primary sources of law. They are primarily used to interpret and clarify existing rules rather than create new ones.

¹ Article 38(1)(d), Statute of the International Court of Justice

Limited Binding Force: The opinions of legal scholars, no matter how eminent, do not automatically become binding international law. Their influence depends on their persuasive power and the extent to which they reflect state practice and *opinio juris*.

Diversity of Views: International law scholars come from various legal traditions and may hold differing views on specific issues. This diversity can lead to conflicting interpretations and make it difficult to identify a single, authoritative teaching.

Potential for Bias: The views of legal scholars can be influenced by their personal, political, or national biases. It is important to consider the potential for bias when evaluating the teachings of publicists.

Limited Practical Application: In practice, teachings are often cited in support of arguments already based on treaties, custom, or other primary sources of law. They rarely serve as the sole basis for legal decisions.

Despite these shortcomings, the teachings of qualified publicists still play a valuable role in the development and interpretation of international law. They aid in clarifying ambiguous legal concepts, identify emerging trends, and stimulate debate on important legal issues. However, it is crucial to recognize the limitations of teachings and to consider them in conjunction with other sources of international law.

Other Sources on International Law

In addition to treaties, customary international law, general principles of law, and judicial decisions, there are other sources of international law that contribute to its development and implementation which are worth mentioning. Such as:

1. Resolutions of International Organizations

Resolutions adopted by international organizations, such as the United Nations General Assembly, can provide guidance on international law and influence its development.

2. International Commissions and Committees

Reports and recommendations of international commissions and committees, such as the International Law Commission, can contribute to the development of international law.

3. Conferences and Diplomatic Conferences

Conferences and diplomatic conferences, such as the Geneva Conventions, can lead to the adoption of treaties and the development of customary international law.

4. Unilateral Acts of States

Unilateral acts of states, such as declarations and statements, can contribute to the development of customary international law.

5. Soft Law

Soft law, such as guidelines and codes of conduct, can influence the development of international law and provide guidance on best practices.

6. International Law Institutions

International law institutions, such as the International Committee of the Red Cross, can contribute to the development of international law through their work and publications.

7. National Laws and Practices

National laws and practices can influence the development of international law, particularly in areas such as human rights and environmental law.

These other sources of international law, while not primary to the development, still play an important role in shaping the development and implementation of international law.

3.3 Conclusion

From this chapter, it can be seen International law is a complex and dynamic system that is derived from a variety of sources. Treaties, customary international law, general principles of law, judicial decisions, and other sources all contribute to the development and implementation of international law. And this chapter has allowed us to examine them in full. Understanding in detail the nature, characteristics and shortcomings of the individual sources of international law.

CHAPTER FOUR

SUMMARY OF FINDINGS

4.1 Introduction

So far, we can see that the efficacy of international law is a subject of intense scholarly debate, and there exists a broad consensus that while international law plays an essential role in global governance, its practical implementation and institutional limitations present significant challenges. This discussion evolved over the years, with scholars examining both theoretical and practical dimensions of international law's role in regulating state behavior, promoting justice, and addressing global issues like human rights, environmental protection, and conflict resolution. This chapter seeks to analyze my key findings on this topic which reflect on the challenges of implementation and the limitations of institutions responsible for the enforcement of international law.

4.2. Challenges in Implementation

1. Sovereignty vs. Compliance

A primary challenge in the effectiveness of international law is the tension between state sovereignty and compliance with international norms. Compliance with international norms is most at times viewed to be an almost complete antithesis of sovereignty. International law operates on the assumption that states will voluntarily adhere to its rules and obligations, this ironically is done so as not to infringe on the sovereignty of nations; however, many states prioritize national sovereignty over international commitments. As noted by Thomas Franck¹, sovereignty remains "the preeminent organizing principle", and states are often reluctant to subordinate their

¹ T. M. Franck, (1995). *The Power of Legitimacy among Nations*. Oxford University Press

national interests to the dictates of international law. The consequence is that states selectively comply with international law when it aligns with their domestic agendas or geopolitical interests. There's no objectivity when it comes to state compliance with international laws.

2. Lack of Enforcement Mechanisms

A fundamental challenge for international law is the lack of strong enforcement mechanisms. Unlike domestic legal systems, where courts have the power to enforce judgments through institutions like police forces or military action, international law often lacks such mechanisms. As Martti Koskenniemi¹ once again points out, international law is "fundamentally weak" because it lacks the coercive power to compel compliance. International bodies like the United Nations (UN) or the International Court of Justice (ICJ) may issue resolutions or judgments, but their enforcement depends on voluntary state cooperation. Imagine issuing a regulation where compliance is based on state or organizational cooperation, which upon failure to comply, the only recourse or means of sanction is likely also based largely on compliance, either by the offender or other international bodies who also have to weigh the balance of compliance against their own national and international interests. This is particularly evident in the case of the UN Security Council, where decisions can be blocked by veto-wielding permanent members.

3. Unequal Power Dynamics

The application of international law is frequently hindered by unequal power dynamics. The global legal order is often seen as reflecting the interests of the most

¹ M. Koskenniemi, (2005). *From Apology to Utopia: The Structure of International Legal Argument*. Cambridge University Press

powerful states. This critique is evident in the writings of scholars such as Robert Keohane, who argues that international institutions often serve the interests of the powerful rather than the equitable distribution of justice¹. For instance, major powers, such as the United States, have been accused of selectively adhering to or undermining international legal norms, especially when they conflict with their geopolitical objectives.

Stephen Krasner² explains that despite the idealistic vision of international law as a universal and impartial system, it can be deeply influenced by the strategic objectives of major powers.

Disregard or selective adherence to international legal norms in order to achieve geopolitical goals has all but become the norm now with powerful states and international players. When powerful states violate international law, the lack of enforceable sanctions or accountability mechanisms weakens the legitimacy of international law and erodes trust in global legal frameworks. This is clearly outlined in the Brazil-Aircraft case³. A case notable as an example of the enforcement struggles faced against powerful countries.

The background of this case is as follows.

In 1999, Brazil challenged Canadian subsidies to the aircraft industry, specifically the Bombardier company, at the WTO. Brazil argued that these subsidies were inconsistent with WTO rules, as they provided unfair advantages to Canadian aircraft manufacturers.

¹ R. O. Keohane, (1984). *After Hegemony: Cooperation and Discord in the World Political Economy*. Princeton University Press

² S. D. Krasner, (2001). *Sovereignty: Organized Hypocrisy*. Princeton University Press

³ Brazil – Measures Affecting Imports of Retreaded Tires (Brazil – Retreaded Tires), WTO Dispute No. 438, Report of the Appellate Body, 3 December 2007, WT/DS438/AB/R

The WTO Dispute Settlement Body (DSB) ruled in favor of Brazil, finding that the Canadian subsidies were indeed inconsistent with WTO rules. The DSB recommended that Canada withdraw the subsidies or modify them to bring them into compliance with WTO rules.

Despite the WTO's ruling, however, Brazil faced significant challenges in enforcing the decision. Canada appealed the ruling, which delayed implementation. When Canada eventually implemented changes to its subsidy program, Brazil argued that these changes did not fully comply with the WTO's ruling.

Brazil requested authorization from the WTO to retaliate against Canada, which was granted in 2000. Brazil imposed trade sanctions worth approximately \$250 million on Canada. However, Canada continued to dispute the level of retaliation, leading to further delays.

The dispute was eventually settled in 2001, with Canada agreeing to modify its subsidy program and provide compensation to Brazil.

This case highlights the level of impotence that exists with international law, especially considering that the WTO dispute settlement body is actually among the most successful dispute settlement bodies in international law. The relativity of what is considered 'success' in international law implementation compared with domestic law implementation upon close study is extremely shocking. You're left shaking your head and muttering '...these are the issues'.

4. Non-State Actors and Transnational Issues

The changing landscape of international relations, with the increasing role of non-state actors like multinational corporations, international NGOs, and transnational

terrorist organizations, has posed a significant challenge to the effectiveness of international law. At this point, not only is it non-effectual, it is now proven to be inadequate to address contemporary issues. According to Andrew Clapham¹, international law struggles to regulate non-state actors effectively, especially in areas like human rights, environmental regulation, and transnational crimes. While international legal systems are traditionally state-centered, the rise of these non-state actors, along with transnational issues such as climate change, calls for the expansion and adaptation of international law to address emerging global challenges.

This is particularly evident in the struggle to create international legal norms that can effectively hold corporations accountable for environmental damage or human rights violations.

4.3 Institutional Limitations

Throughout the course of this work so far, it can be understood that the issues regarding the efficacy of international law are constituted of both challenges of implementation and institutional limitations. We've just about exhausted a discussion and key findings regarding problems of implementation, now we focus on institutional limitations.

The limitations of international institutions are a significant factor that undermines the efficacy of international law. Several scholars have examined how the institutional framework of international law, including its fragmentation and lack of capacity, contribute to its implementation challenges.

1. Weakness of International Organizations

¹ Clapham, A. (2006). *Human Rights: A Very Short Introduction*. Oxford University Press

International organizations designed to oversee and enforce international law, such as the United Nations and the International Criminal Court, are often criticized for being weak and politically constrained. According to Mary Ellen O'Connell¹, these organizations' efforts to uphold international law are limited by the political realities of international relations. The UN Security Council's five permanent members possess veto power, which often allows powerful states to block measures that might challenge their interests, including sanctions or military interventions². Furthermore, while the UN can issue resolutions, it is reliant on member states to enforce them, and powerful states may simply ignore these recommendations when they conflict with their national interests.

2. Jurisdictional and Authority Constraints

Another significant issue in international law is its fragmented structure. International law comprises various treaties, conventions, and organizations, each with different areas of jurisdiction, different provisions, different agendas, different sanctions and whatnot. This fragmentation often complicates the application of international law, as there is no overarching institution with authority to coordinate all aspects of global legal governance. For example, the ICC is limited in scope to prosecuting war crimes, genocide, and crimes against humanity, while other issues like economic crimes or environmental violations fall outside its jurisdiction. Similarly, the WTO is focused on trade-related matters, but it does not address issues such as human rights or environmental protection. This fragmentation creates gaps in the global legal framework, which, as Anne-Marie Slaughter³ suggests, leads to a lack of coordination between different legal institutions and often results in inconsistent enforcement.

¹ M. E. O'Connell, (2006). **International Law and the United Nations**. Cambridge University Press

² B. Simma, (2002). **The United Nations at the Crossroads of Reform**. American Journal of International Law, 96(1), 94-123

³ A. M. Slaughter, (2004). *A New World Order*. Princeton University Press.

3. Political Influence and Selective Enforcement

The influence of powerful states on international legal bodies further exacerbates the challenge of impartial enforcement. Scholars like Kenneth Abbott and Duncan Snidal¹ argue that international law and its institutions are often influenced by the political agendas of the most powerful states, resulting in selective enforcement. For instance, the ICC has been criticized for disproportionately prosecuting individuals from African countries, while powerful states, such as the United States or China, have avoided prosecution for alleged violations. The perception that international law is applied unevenly undermines its legitimacy and effectiveness, as weaker states may feel that the system is rigged against them creating room for backdoor solutions to issues, without recourse to the proper channels to dispute settlement.

4. Access to Justice

International law is also criticized for being difficult to access for many states, especially developing countries. The high costs and procedural complexity of accessing international courts, such as the ICJ or the ICC, mean that only wealthier and more powerful states can afford to bring cases or defend themselves in these forums². The Brazil- Aircraft³ case also highlights the frustration faced by developing countries trying to seek redress against economic and political giants. This unequal access to justice further undermines the legitimacy of international law, particularly in cases where states from the Global South are disproportionately affected by violations but cannot afford to seek justice.

¹ K. W. Abbott, & D. Snidal, (2000). Hard and Soft Law in International Governance. *International Organization*, 54(3), 421-456

² Schachter, O. (1999). *International Law in Theory and Practice*. Martinus Nijhoff Publishers

³ Brazil – Measures Affecting Imports of Retreaded Tires (Brazil – Retreaded Tires), WTO Dispute No. 438, Report of the Appellate Body, 3 December 2007, WT/DS438/AB/R

4.4. Implications of Institutional and Implementation Challenges

1. Ineffective Accountability for Violations

One of the most significant consequences of the challenges in implementation and institutional limitations is the lack of effective accountability for violations of international law. When states or non-state actors violate international law without facing meaningful consequences, it undermines the legitimacy of international legal frameworks. As Richard Falk argues, the absence of a robust enforcement mechanism or real political will to hold violators accountable leads to widespread impunity¹. This lack of accountability is particularly damaging in areas like human rights, where violations by governments may go unchecked because the violators are too powerful to face effective international pressure. A close look at the Russia/Ukraine situation will tell the whole story.

2. Selective Enforcement and Inconsistent Application

Selective enforcement of international law, as discussed earlier, is one of its most damaging shortcomings. Scholar, David Kennedy, contends that the selective application of legal norms based on political or economic considerations undermines the concept of universal justice². The result is that international law is often seen as serving the interests of powerful states rather than ensuring impartial justice. This perception that international law lacks political objectivity can erode trust in international legal institutions and diminish their authority to regulate global affairs.

¹ R. Falk, (2008). The Decline of International Law and the Rise of Global Governance. *Journal of International Affairs*, 62(1), 1-22.

² D. Kennedy, (2004). *The Dark Side of Virtue: Reassessing International Humanitarianism*. Princeton University Press

3. Global Cooperation on Critical Issues

The challenges to international law's implementation, particularly the lack of consistent enforcement and accountability, make it harder to address global issues that require collective action, such as climate change, nuclear disarmament, and poverty alleviation. As several scholars have noted, effective global cooperation is heavily reliant on the ability of international law to hold states accountable and ensure that global agreements are respected. The prevalent global political paranoia prevents this and complicates otherwise simple issues with political agendas and economic pressures. Without stronger enforcement mechanisms and institutional reforms, international law struggles to address these complex, transnational issues effectively.

4.5. Potential for Reform

Despite the significant challenges facing international law, there are efforts to reform and strengthen its institutions and mechanisms. Scholars such as John Ruggie have proposed increasing the accountability of international institutions by enhancing transparency and creating stronger mechanisms for enforcement¹. Others, like David Held², advocate for the democratization of global governance, arguing that more inclusive decision-making processes could improve the legitimacy of international law (Held, 2004). These reforms could involve changes to the structure of the UN Security Council or expanding the jurisdiction of international legal bodies to address broader issues beyond war crimes and human rights violations.

¹ J. G. Ruggie, (2004). Reconstituting the Global Public Domain: Issues, Actors, and Practices. *European Journal of International Relations*, 10(4), 499-531.

² D. Held, (2004). *Global Covenant: The Social Democratic Alternative to the Washington Consensus*. Polity Press.

4.6. Conclusion

The efficacy of international law is shaped by significant challenges in its implementation and institutional limitations. While international law is essential for maintaining global peace and justice, its effectiveness is often hindered by the tension between state sovereignty and compliance, a lack of enforcement mechanisms, and unequal power dynamics. Additionally, the fragmentation of international legal institutions and their political influence complicate and create issues regarding the application of legal norms, leading to selective enforcement and inconsistent application. Despite these challenges, ongoing reforms and adaptations offer hope for a more effective international legal system in the future. Strengthening international law requires a concerted effort to address these limitations and build a more equitable, accountable, and enforceable global legal framework.

CHAPTER FIVE
RECOMMENDATIONS, KEY TAKEAWAYS, FINAL THOUGHTS AND
CONCLUSION

5.1. Do we Need International Law?

At this point, now come to the understanding that international law is plagued with implementation and institutional limitations hindering its efficacy to a substantial degree, the worst of which have been properly discussed earlier in this work. With recent happenings in the international and sub national space further drawing attention to these inabilities. And these evident issues have made it relevant in contemporary times to question whether or not international law as a body or regulations should simply be scraped and international arrangements and agreements be updated to contain the method of interactions between the patties within the terms, essentially the rules of one agreement need not even resemble that of another.

While this seems attractive in concept, the honest truth is that the idea expressed above is simply an extreme version of what is currently in practice. In chapter one of this work, the historical background of international law was looked into briefly, and that showed that international law as it is today grew from individual agreements between international bodies which then created a trend or rather a format for engaging in international relations, only recently in the 17th century did work such as that of likes of Hugo Grotius in his work *Mare Liburum*¹ decide to dig into the jurisprudence of it and draw out the official structure that has involved into what we see today. In essence, to do so would be to set international law back to the dark ages,

¹ H. Grotius, *Mare Liberum*, 1609

and even with that, there is barely any guarantee that the world won't come full circle and end up in the same situation years later.

International still retains enough relevancy to warrant review rather than replacement or abolishment. Hence the need for recommendations.

5.2 Recommendations which could be proposed include:

5.2.1 Strengthening International Institutional Framework

Enhance the Authority of International Courts and Tribunals

Granting international courts and tribunals greater authority to interpret and apply international law can help to:

1. Clarify ambiguous laws: International courts should be more intentional, and seek to clarify ambiguous laws. This helps in reducing ambiguity and uncertainty¹.
2. Set precedents: International courts can establish precedents that shape the development of international law and influence state behavior². On top of that, the statutes establishing the international courts could also be amended to allow them create case law that's binding in more situations.
3. Promote consistency: International courts can ensure consistency in the application of international law, reducing the risk of conflicting interpretations. A central format or procedural guideline for the application of international law should be called for and established.

These acts could also reduce the lengthiness of the legal process.

¹ M. Shaw, (2017), International Law. Cambridge University Press.

² A. Aust, (2013). Modern Treaty Law and Practice. Cambridge University Press.

5.2.2 Establish a Centralized Enforcement Mechanism.

Creating a centralized enforcement mechanism would hypothetically have to review and contain legal and institutional framework, funding, oversight and accountability, and operational framework among others. But it can help to:

1. Deter non-compliance: Shaw¹ explains that a centralized enforcement mechanism can deter states from violating international law, as they would face consequences for non-compliance.
2. Ensure accountability: A centralized enforcement mechanism can ensure that states are held accountable for their actions, promoting a culture of responsibility.
3. Provide a unified response: A centralized enforcement mechanism can provide a unified response to crises, reducing the risk of conflicting actions by individual states². It's sort of like creating a universal military drill to sensitize international bodies on how to handle crises.

5.2.3 Increase Funding and Resources for International Institutions

Providing international institutions with sufficient funding and resources needed, can help to:

1. Enhance capacity: From early crisis detection equipment to personnel and all the way to infrastructure. Adequate funding and resources can greatly enhance the capacity of international institutions to implement and enforce international law.

¹ M. Shaw, (2017). International Law. Cambridge University Press. p. 245

² I. Brownlie, (2008). Principles of Public International Law. Oxford University Press, p. 63

2. Improve effectiveness: Just as lubricant helps gears to turn more enthusiastically, sufficient funding and resources can improve the effectiveness of international institutions, enabling them to respond to crises and challenges more eagerly.

3. Promote sustainability: Adequate funding and resources can lead to more availability of better infrastructure and personnel, better infrastructure and personnel leads to better response to crises, and better response then promotes sustainability, enabling international institutions to maintain their operations and activities over the long term.

5.2.4 Improving Enforcement Mechanisms for International Law

Malcolm Shaw had the idea that to make it international law work more effectively, the development of more effective ways to encourage countries to comply with their international obligations is sacrosanct¹. Ways to do this include:

5.2.5 Developing More Effective Sanctions Regimes

Sanctions are a powerful tool for encouraging compliance. However, according to Aust², they need to be ‘targeted’ and precise, in order to be ‘effective’, and also to avoid harming innocent civilians. Here are some ways to improve sanctions:

1. Targeted Sanctions: Focus on specific individuals or entities responsible for non-compliance. And focus on specific situations that seem to be prevalent and have gained notoriety.

¹ M. Shaw, (2017). International Law. Cambridge University Press. p. 245

² A. Aust, (2013). Modern Treaty Law and Practice. Cambridge University Press. p. 155

2. Economic Sanctions: Imposing stricter economic costs on non-compliant countries, such as trade embargoes or asset freezes.
3. Diplomatic Sanctions: Isolate non-compliant countries diplomatically, such as expelling them from international organizations.

5.2.6 Enhancing Diplomacy and Mediation Efforts

Diplomacy and mediation are essential for resolving disputes peacefully. Here are some ways to enhance these efforts:

1. Mediation Services: Establish neutral and impartial platforms for resolving disputes, such as the United Nations Mediation Services.
2. Diplomatic Engagement: Encourage bilateral or multilateral talks to resolve disputes peacefully. More focus should be placed on preventing disputes from escalating and possibly causing international incidents.
3. Conflict Prevention Mechanisms: Establish early warning systems or conflict resolution mechanisms to prevent conflicts from escalating.

5.2.7 Establishing a System of Incentives for Compliance

As we all know, the fastest donkey is one with a carrot held in front of it. Not saying international entities are donkeys, but rather that incentives can be a powerful motivator for countries to comply with international law¹. Here are some ways to establish a system of incentives:

1. Economic Incentives: Offer trade agreements, investment opportunities, or other economic benefits to countries that comply with international law. This creates a

¹ M. Shaw, (2017). International Law. Cambridge University Press. p. 246

desire to be included and appeals to the more selfish side of nations, making compliance with international law more attractive.

2. Diplomatic Incentives: Offer increased international cooperation, enhanced reputation, or other diplomatic benefits to countries that comply with international law.
3. Capacity-Building Programs: Provide technical assistance, training programs, or other capacity-building programs to help countries build their capacity to comply with international law. Awareness programs are also not a bad way to go as the populace may not know of or understand the value of international law.

5.2.8 Strengthening International Institutions

International institutions play a critical role in enforcing international law, and they are a crucial area that needs to be strengthened. Here are some ways to strengthen these institutions:

1. United Nations Reform: Reform the United Nations to make it more effective and efficient in enforcing international law. Some of the provisions of the United Nations Charter seem to favour some more developed countries more than others. Not all fingers are equal. The focus needs to be changed to equity rather than strict equality.
2. Regional Organizations: Strengthen regional organizations, such as the European Union or the African Union, to make them more effective in enforcing international law. The Economic Community of West African States, ECOWAS, is doing quite well in this aspect, especially with the introduction of the subsidiarity principle¹, which helps bring international relations and international law to the local levels

¹ ECOWAS Environmental Policy

5.2.9 Enhancing Transparency and Accountability

Transparency and accountability of international relations and workings can do a lot to make entities feel at ease in international dealings, they are essential for enforcing international law. Here are some ways to enhance them:

1. Reporting Mechanisms: Establish regular reporting mechanisms to monitor compliance with international law.
2. Monitoring Mechanisms: Establish monitoring mechanisms, such as human rights monitoring or environmental monitoring, to track compliance with international law.
3. Accountability Mechanisms: Establish accountability mechanisms, such as international courts or tribunals, to hold countries accountable for non-compliance with international law.

These may be perceived as encroaching on the sovereignty of state entities, but something must be sacrificed in order to gain, and guidelines could easily be put in place to manage the intrusiveness of these regulations.

5.3 More recommendations include;

More strictness on the method of application of human rights law. Even at the expense of sovereignty. John Locke¹ stated that the state cannot exist without her people, so in all situations, the citizens of a state have to be the priority. Countries such as Cuba, North Korea and Japan, with their subhuman standard of treating their citizens should be dealt with more severely.

¹ Chapter X, Section 69, John Locke. Second Treatise of Government 1689

It is my belief that while there are methods to achieve this, which would not require outright war, no one, however, is interested in researching or pursuing these methods.

Another method would be to enhance protection for vulnerable groups. Women and children rights as well as the rights of migrants and refugees should be protected with more severity. Some believe migrants and refugees don't even deserve rights, which goes against the idea of human rights being fundamental and afforded to all humans.

Ontop of that, the International Criminal Court's authority must be strengthened, so as to make it more effective in prosecuting those who are responsible for violating and abusing human rights.

It is not enough to simply establish and strengthen mechanisms for detecting and identifying perpetrators of human rights abuse, there has to be an effective legal method of punishing and sanctioning them.

Anthony Aust¹, also recommended that simplifying the treaty making process and procedures would make negotiation between states easier.

5.4 The Role of International Institutions

International institutions, such as the United Nations, play a critical role in promoting international law and preventing conflicts. However, these institutions face numerous challenges, including inadequate funding, limited authority, and bureaucratic inefficiencies. To address these challenges, it is essential to reform and strengthen international institutions, increase their funding and authority, and improve their efficiency and effectiveness.

¹ A. Aust, (2013). Modern Treaty Law and Practice. Cambridge University Press.

5.5 The Importance of Cooperation and Diplomacy

Cooperation and diplomacy are essential for promoting international law and preventing conflicts. Talking it out remains one of the most effective ways of dispute resolution. Arbitration and mediation are basically just formal methods of talking things out.

Essentially, through cooperation and diplomacy, nations can resolve disputes peacefully, promote mutual understanding and respect, and address common challenges and threats. To promote cooperation and diplomacy, it is essential to establish and maintain open and transparent communication channels, foster mutual trust and respect, and promote cultural exchange and understanding.

5.6 The Need for Accountability and Transparency

Accountability and transparency are critical for promoting international law and preventing conflicts. Through accountability and transparency, nations can ensure that they are complying with international law, prevent human rights abuses and corruption, and promote mutual trust and respect. To promote accountability and transparency, it is essential to establish and maintain effective monitoring and reporting mechanisms, promote freedom of information and the press, and ensure that those responsible for human rights abuses and corruption are held accountable.

5.7 Addressing the Root Causes of Conflict

Finally, it is essential to address the root causes of conflict, such as poverty and inequality, to prevent future conflicts and promote sustainable peace. Through sustainable development and poverty reduction, nations can reduce inequality and promote economic growth and stability. To address the root causes of conflict, it is essential to promote sustainable development and poverty reduction, address climate change and environmental degradation, and promote human rights and the rule of law.

The importance of strengthening international law cannot be overstated. International law faces numerous challenges in enforcing its provisions, particularly in the areas of human rights and conflict prevention. However, by applying the recommendations discussed in this chapter, as well as others I may have failed to mention in addressing these challenges, progress can be made towards strengthening international law.

5.8 Key Takeaways

Throughout our discussion, several key points have emerged. Firstly, international law faces significant challenges in enforcing its provisions, particularly in the areas of human rights and conflict prevention. Secondly, strengthening international institutions, such as the United Nations, and improving treaty-making processes can help to address these challenges. Thirdly, promoting diplomacy and mediation, building capacity and promoting cooperation, and enhancing transparency and accountability are also essential for strengthening international law. Finally, addressing the root causes of conflict, such as poverty and inequality, is critical for preventing conflicts and promoting sustainable peace.

5.9 Future Directions

As the world moves forward, it is essential to continue to strengthen international law and its institutions. This can be achieved through ongoing reforms, increased cooperation among nations, and a commitment to upholding the principles of international law. Furthermore, it is crucial to address the root causes of conflict, such as poverty and inequality, and to promote sustainable development and human rights. Essentially, it has to be a cooperative effort between all nations and international entities.

5.10 Final Thoughts

To sum it up, strengthening international law is crucial for promoting peace, stability, and cooperation among nations. Through ongoing reforms, increased cooperation among nations, and a commitment to upholding the principles of international law, a more just and peaceful world becomes an attainable possibility.

Furthermore, by addressing the root causes of conflict, promoting accountability and transparency, and fostering cooperation and diplomacy, we can prevent conflicts and promote sustainable peace. Ultimately, as earlier stated, the strengthening of international law requires a collective effort from nations, international organizations, and civil society. One tree cannot build a forest, international cooperation towards strengthening international law is key.

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