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The International Criminal Court and Problems of State Sovereignty

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Abstract: ***International law has arguably existed since the dawn of recorded history as a body of codes and conducts that created custom and certainty in international relations. Treaties between Egypt and the Hittite Empire exist from the 13th century BC. In the sixth century BC, Herodotus described how the Carthagians and North African tribe used a method of 'silent trading' to trade goods and gold without the individual parties meeting. The article discusses the International criminal court as a court looking over the crimes committed by the individuals that are in violation of the international human rights. The article also throws light upon the concept of sovereignty enjoyed by the court which empowers it to try individuals belonging to any of the member nations on the question of human rights.***

Keywords: International law, Human rights, Sovereignty, Silent trading, International relations.

INTRODUCTION

When declaring the entry of the International Tribunal, the Attorney general of the United Nations, Kofi Annan, said, "It is a great victory for justice & world order, a switch from either the rule of superior firepower but toward the rule of law." "The process we are experiencing now marks a definitive break the with pessimistic mindset according to which, with in words of Stalin, "a single loss is a disaster, a theoretical one is a maternal people."[1]

Before the start of that same International Criminal Court, owing to the concept of 'non-interference in internal affairs', the states backed away with human rights abuses taking place within a country. The States also lacked the authority to stop and prosecute human rights abuses. Via the International Criminal Tribunal now, the international community tries to put to trial the sins perpetrated by those who have committed serious violations of human rights. The court jointly grants the states the right to maintain a watchful eye and send to action the lawbreakers.

This empowers the ICC with the sovereign authority to investigate a state's internal issues. This, in turn, will lead states to look more closely at the abuses of human rights and encourage them to be disincentive of the perpetrators in order to avoid the problem from being one of critical crime and to preserve their country's intervention with the international criminal court. The international community tries to put to trial the sins perpetrated by those who have committed serious violations of human rights. The court jointly grants the states the right to maintain a watchful eye and send to action the lawbreakers.[2]

Mostly with development of positivism, the 19th century took international law away from the realm of natural or universal law. Positivism notes that regulation is a "fully unique institution" and that laws are formed through all the formation of norms consciously. This idea came again

[1] The text of UN Secretary-General Kofi Annan's speech, to the closing of the ninth session of the Preparatory Commission for the ICC, April 19, 2002
[2] Gow, James, A Revolution in International Affairs? Security Dialogue. September 2000, 31 (3) 297.

from Hobbes, who claimed that life would really be "solitary, poor, nasty, brutish and short" in the 'state of nature', unless people produced a contract of duties and obligations that would've been enforced by the state. This meant that there would be no rule of nature, just its laws created by man in even a scientific, objective way as this states could peacefully exist and co-exist. In comparison to speculative or theological, positivism was first "coined by the French social philosopher Auguste Comte in the 1830s, if it meant "science" or "objective" or "empirical,

DISCUSSION

Brief overview of ICC

The law authorising the International Criminal Court comprises over 120 documents. The law establishes that even the court is established in the Hague and calls it an autonomous entity, ties it to the United Nations and establishes its authority over persons who are really 18 years of age or 18 years of age. But for crimes laid down mostly in law, which can be very serious crimes but instead affect all this group of nation states, respectively, the international crimes of genocide, war acts of treason. The crime of aggression are included until a description of the whole crime can be accepted.[3]

The Act allows 18 judges with comprehensive skills and experience in the areas of criminal law, human rights law and indeed the processes for these laws to be elected. These judges serve the main legal structures and geographic areas of the world. In contrast, the State Party to the ICC Law shall elect a prosecutor, independent of both the ICC. The Prosecutor has both the authority to arrest people at his own discretion.

The statute also specifies for limits to be exercised by the court, such as that a court should not prosecute a case that is or has been heard by the national court of the country from which a criminal act is already committed. The complementary Principle is called this principle. Thus, in two cases where the national courts have either been unable unable to prosecute or where it is clear that proper prosecution has not been carried out, proceedings can be instituted in the court. The ICC's authority can also be brought into effect on a proposal by the United Nations Security Council operating under Chapter Vii of the Charter Charter.[4]

Unless proven guilty or innocent, the statute allows the international criminal court to always believe an individual to be innocent. The law also offers such protections, such as insanity, intoxication, self-protection or the defence of others, and coercion, to the defendant. Superior commands are also valid, but only in very restricted cases.[5]

Meaning of sovereignty:

While having between sole nor empirical meaning sovereignty can be debated in context of both state institutions and international relations. In any particular time or space, it must also be determined with respect to its defined context. With this in eye, the following will first include an overview including its philosophical evolution of the notion of sovereignty and then provide a description of its practical implementation in policy coordination. As a consequence, current discourse, looking at contemporary context, can be deconstructed.

[3] Articles 11(1) & 22(1), *Rome Statue of The International Criminal Court*
[4] Article. 13(b), *Rome Statue of The International Criminal Court*
[5] Article. 33, *Rome Statue of The International Criminal Court*

Sovereignty and International Law In the international arena, international (public) law is connected to the control of organisations that hold and enjoy rights and are constrained by duties. States are mainly among the increasing number of legal individuals included in this branch of law.[6]

The international community of states accepted and endorsed the regulation of matters concerning peace and harmony it through development of the United Nations at the end of World War II. It has been argued that, in fact, in international law, the United Nations is perhaps the most effective standard defining and standard controlling body.7. The United Nations Charter provides some insight further into view of state sovereignty which has already been codified in the last 50 years. The fundamental principle of Article 2(1) of the Charter is that the United Nations acknowledges the called the idea of all its citizens.

"The important right theory of the law of nations, which regulates a society composed largely of states having actual presence, is liberty and sovereignty of states. If international law exists, then it is possible to express the complexities of state sovereignty in terms of law, and since states are equal and have legal personality, sovereignty is a relationship established by law with other states (and organisations of states)." [8]

International law guarantees independent states' autonomy, but these state governments need not live in fantasy land."[9] The idea that all states are equal still remains, which means that the sovereign rights of each state are constrained by the equally sovereign rights of others.[10]

CONCLUSION

In his view, the Indian jurist Radhabinod Pal had gain popularity with a 'not guilty' verdict in favour of the Japanese either at Tokyo trials. "In the year 1948, Justice Pal had given the dissenting note and had argued that "as long as the international organisation remains at the stage where only the defeated in a lost war are eligible for trials and prosecution for crime, the implementation of criminal liability will not achieve the deterrence and preventive impact. The colonial period saw the differentiation including its world into colonies that were civilised and not civilised. Today, once again, new demarcations are starting to emerge basis of pre, modernity, or post-modernity. The world is increasingly moving through 'dual sovereignty' or truncated independence, which, besides being universal, in some particular areas that are inconsequential to international society, only provides the territorial state minimal legislative powers. The options had become limited in an increasingly interdependent post-Cold War world, as states have become transmitters of international bodies into in the accessing network. In such conditions, Instead of letting any sovereign powers flow to some of those or more dominant players in international affairs, it might be easier for small and poor nations to pool those sovereignties in international organisations.

[6] Blay, note 69, p 41
[7] Makinda, note 41, p 106
[8] Brownlie I, *Principles of Public International Law*, 4th Ed, 1990, p 287 cited in Steiner and Alston, note 44, p 154.
[9] Burmester, note 67, 131
[10] Hannum M, Autonomy, *Sovereignty and Self-determination*, (1990) p 15 cited in Burmester, note 67, p 131