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INTERNATIONAL LAW AND THE PEACEFUL SETTLEMENT OF DISPUTES

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ABSTRACT

International law functions principally in maintaining the fabric of international relations, which reflects the overriding desire by states to resort to a supra-national power of legal mechanisms to resolve disputes that may arise among them on territorial claims without force and in a peaceful manner. The United Nations (UN), its Security Council, and its judicial organ - the International Court of Justice (ICJ) - were established after the Second World War primarily to achieve international peace and security. Consequently, the Constitutive Charter of the UN placed an obligation on member-states to resolve all disputes in a peaceful manner which was ostensibly geared towards forestalling the occurrence of another world war. Under the auspices of the UN, the world has achieved a comprehensive body of international law and dispute resolution mechanisms, some of which have helped to resolve disputes that would have otherwise threatened international peace and security. Despite this, scholars have paid less attention to how international law and the implementing agencies of the UN have contributed to global dispute settlement. This paper examines the significance of international law and its implementing agencies in the peaceful settlement of disputes. We argue that international law and its implementation agencies provide an effective framework for peaceful dispute settlement among nations, promoting global security and cooperation.

Keywords: International law, United Nations, Legal mechanisms, Peace and security, Settlement of disputes, War

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INTRODUCTION

> Insofar as international law is observed, it provides us with stability and order and with a means of predicting the behaviour of those with whom we have reciprocal legal obligations.[4]

The effectiveness of international law in promoting the peaceful settlement of disputes remains a pressing concern in global governance. Despite the proliferation of international treaties, organizations, and courts, interstate conflicts persist, often escalating into violent confrontations. This paper examines the importance of international law and its enforcement entities in the peaceful resolution of disputes. It is argued that international law and its enforcement agencies provide an effective framework for peaceful dispute resolution between nations, fostering global security and cooperation. Using the desktop approach, various international treaties and institutions are examined in the context of their implications for dispute settlement. This research contributes to the development of more effective international legal strategies for promoting peaceful dispute resolution in the international arena. It also contributes specifically to the literature on international law, international dispute settlement, law and society, and historical jurisprudence.

The international legal regime has undergone considerable change since the end of the First World War. There has also been a shift in the old order since the Second World War. States now focus on international institutions as an important means of peacefully resolving disputes, promoting economic trade, and upholding fundamental human rights and dignity.[5] After the dissolution of the League of Nations and the establishment of the UN system, and the subsequent disintegration of Eastern Europe in the early 1990s, the 20th century marked a shift from traditional international law, which existed between states, to the modern concept of universalism in international law, which is open to new institutions.[6] In the 21st century, the state-centered international system

[4] JW Fulbright on international relations and law. This quote has implications for dispute settlement as it emphasizes reciprocal legal obligations.
[5] Ibid.
[6] WTO, The Place of the WTO and its law in the international legal order, *The European Journal of International Law 17 5* (2007).

has been replaced by a system of various transnational actors, in which technology and information play key roles.[7]

In his classic work, Professor James Brierly defined the law of nations or international law as the "body of rules and principles of action which are binding upon civilised states in their relations with one another".[8] Professor Onuma intimates that international law should transcend beyond its traditional boundaries that are "West-centric," "state-centric," and "judicial-centric" formulations to embrace other cultural, religious, and civilised perspectives.[9] He did not postulate different laws for the various cultures as well as civilisations of the world, but instead one universal non "West-centric" international law. Here, international law was conceptualised as "the law of power whose natural evolution gives place to the law of global governance," with the authority to make binding decisions to ensure a peaceful world, as has been emphasised by both academics and diplomats.[10]

The universality of international law means that it is valid and embraced globally by all nations, as well as binding. Its acceptance as well as global validity does not negate the fact that there could be regional (customary or conventional) international law or a regime of treaties that operate as sub-systems to the global ones. This does not discount the coming into emergence of bilateral legal covenants between states.[11] The international legal regime is then seen from the interrelationships between different subjects, helping in its crystallisation and implementation either directly or through international institutions. In the view of Anghie,[12] international law developed in the 16th century after the Spanish had encountered the Indians. During that period, one of the founding fathers of international law, Francisco de Vitoria, put in place

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[7] EB Weis, Legacies of Louis B Sohn: The United Nations Charter and International Environmental Law, *Willamette Journal of International Law and Dispute Resolution* (2008) 212-224; Mitchell and Hensel, Regime type is also thought to influence resolution of disputes (2007).

[8] L Brierly, The Law of Nations, H Waldock (ed.) *The Law Institute of America* (6th edn 1963) 1.

[9] LF Damrosch, M Teresa, T1 Caffi and J deLisle, How international is international law? 3 *Proceedings of the Annual Meeting* (American Society of International Law 2017) 69-78.

[10] Damrosch et al., (n 7).

[11] Ibid.

[12] A Anghie, Time present and time past: globalization, international financial institutions and the third world, *NYUJ Int'l L. & Pol.*(1999) *32*, 243; A Anghie, The Bush administration preemption doctrine and the United Nations, In *Proceedings of the ASIL Annual Meeting* 98 (Cambridge University Press 2004) 326-329.

a "secular and universalising basis for legal authority" to replace the "religious papal authority". He opined that, since the Indians were capable of comprehending issues in the same way as the Spanish, they could both be incorporated under the same system of natural law due to the fact that both were endowed with reason.[13] Anghie[14] further shared that instead of seeing international law as a 'preexisting system' brought unto the Indians, it should be seen as a dilemma that helped shape international law.

The establishment of a system of international law usually starts from the international order of nation-states as provided by the "Treaty of Westphalia in 1648," where the developing states in Europe agreed to a regime where the sovereignty and independence of each state were duly recognised.[15] The Osnabruck and Munster Peace Treaties, which were signed respectively in May and October 1648, brought the Thirty Years and Eighty Years' Wars to an end, which culminated in the Peace Treaty of Westphalia, which led to the new demarcation of the political boundaries of central Europe.[16] This led to the development of the "Westphalian system of inter-state law", a system of independent sovereign states whose interaction was to be fashioned out by legal rules.[17]Article 123 of the Treaty of Münster stipulates a three-year period within which states were to use peaceful means to resolve any purported disputes between them.

The development of international law had implications for war and the peaceful settlement of disputes. According to Kelsen,[18] when international law is looked at in a larger sense, right from the Covenant of the "League of Nations" to the Briand-Kellog Pact, then eventually the UN Charter:

> It is hardly possible to say any longer today that according to valid international law any state, unless it has obligated itself otherwise, may wage war against any other state for any reason without violating international law; it is hardly possible, in other

[13] Ibid.
[14] Ibid.
[15] DJ Bederman, *International law in antiquity* 16 (Cambridge University Press 2001).
[16] D Bethlehem, The changing nature of the international system and the challenge to international law, *The European Journal of International Law* (OUP 2014).
[17] Ibid.
[18]H Kelsen, The role of war in international law ( ) 87.

> words, to deny the general validity of the *bellum justum* principle.

Ladd[19] in one of his expositions described the consequences of war in the following terms:

> The evils of war, though admitted by all, are fully understood by none. Its waste of property; its havoc, its desolation of whole empires; its baleful influence on agriculture, commerce and manufactures, on the arts and sciences, on liberty and learning, on morals and religion, on the happiness of individuals, and the prosperity of nations, on the chief interests of mankind for time and eternity, all these well-nigh bid defiance to calculation or conception.

This was a reflection shared at the end of the First World War. The primary objective for the establishment of the League of Nations was to prevent the occurrence of war.[20] In all, the League of Nations dealt with over sixty international disputes, with the major successes being chalked up in the first decade. The Covenant for the League of Nations made provisions that were to deal with war that may arise. Members of the League agreed not to use war except in some 'defined circumstances', while they undertook binding agreements to make use of peaceful procedures for the settlement of international disputes and to use sanctions on member states that violated these cardinal principles of not waging war.[21]

At all material times, the League was geared towards filling the legal "gaps" of the main Covenant and emphasising the need not to resort to war, but to use peaceful means of settling all disputes. In essence, the organisation was preoccupied with the development of a legal order with emphasis on justice, respect for obligations under the Covenant, and promoting conditions for international peace and security. Even though fundamentally the organisation had purposed to achieve international peace and security, the Charter had also emphasised justice and respect for legal rules.[22] And that, so long as member

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[19] W Ladd, A Congress of Nations for the Peaceful Adjustment of All International Disputes, *World Affairs 129 3* (Sage Publications 1966) 176-182.
[20] L Lloyd, The League of Nations and the settlement of disputes Woodrow Wilson and the League of Nations *World Affairs 157 4* (Sage Publications Spring 1995) 160-174.
[21] LM Goodrich, The peaceful settlement of disputes *Journal of International Affairs 9 2* (Editorial Board 1955). The United Nations after ten years (1955) 12-20.
[22] Goodrich et al., (n 19).

states and their citizens had good relations with one another, international differences would exist, but at a minimum.[23] It has been maintained time and time again that, like the League of Nations, the UN was established for the "maintenance of international peace and security".[24]

Like other international organisations, UN membership is contingent on "the principle of voluntary membership of states fulfilling the conditions laid down in article 4 of the United Nations Charter, which includes being a "peace-loving" country.[25]After the First World War, the Covenant for the League of Nations established in 1920 made restrictions on war explicitly in the preamble: "In order to promote international co-operation and to achieve international peace and security, by the acceptance of obligations not to resort to war . . . ".[26] Article 12 prohibited Member States from resorting to war until three months after a dispute settlement process had concluded, whether via arbitration, judicial settlement, or a report by the League of Nations Council.[27]

The United Nations (UN) Charter was promulgated after the League of Nations had been saddled with a lot of challenges, which culminated in the Second World War.[28] The UN Constitutive Charter was geared towards forestalling the occurrence of another world war, which primarily meant that the provisions and the structures established were designed to achieve world peace. The atrocities committed during the First and Second World Wars outraged the conscience of mankind, so the UN was established to prevent another war from occurring and to ensure and maintain world peace.[29] Key among the objectives of the UN was the development of friendly and cordial relations among member countries, advancing the progress of member countries, and respecting

[23] GH Hackworth, The peaceful settlement of international differences, *World Affairs 102 3* (Sage Publications Inc September 1939) 149-152.
[24] Goodrich et al., (n 19).
[25] RK Dixit, Non-Member States and the Settlement of Disputes in the Security Council, *The University of Toronto Law Journal 12 2* (University of Toronto Press 1958).
[26] League of Nations Covenant (1920).
[27]Ibid, Article 12 ("The Members of the League agree that, if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or judicial settlement or to enquiry by the [League of Nations] Council, and they agree in no case to resort to war until three months after the award by the arbitrators or the judicial decision, or the report by the Council. . .").
[28] C Fenwick, The failure of the League of Nations, *The American Journal of International Law* (1936) 506; W Nigel, The legacy of the League of Nations: Continuity or Change?" *Revista Espanola de Derecho Internacional (2019)* 277-278.
[29] W Detley and J Muller, 'The United Nations at Sixty: Getting Serious with Conflict Prevention' *Die Friedens-Warte* (2005) 333-334.

the fundamental freedoms of all the people of the world.[30] The UN is a unique international organisation, due mainly to its Constitutive Charter and broad membership from all the regions of the world. Apart from the Holy See and Palestine, which are not members of the UN but do have observer status,[31] 193 countries of the world are members.

The development of the Constitutive Charter of the UN has also led to the promulgation of several international conventions, treaties, and instruments to regulate the relationship between states, promote international relations, and also to advance the protection of fundamental human rights and the rule of law to ensure global peace and security. Significant among these are the Bill of Rights, which is made up of the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCRs), and the International Covenant on Civil and Political Rights (ICCPRs).[32] The UDHR is an important international convention because it contains provisions that takes care of the basic entitlements of humanity. It enjoins all members of the UN to ensure that human rights are applied and enjoyed by all members of the human race regardless of race, colour, nationality, religion, or social status.[33] The Charter has played a significant role in maintaining the sovereignty of all the member states by prohibiting the use of force.[34]

The "Congress of Nations, for the Peaceful Adjustment of all International Disputes"[35] described war as follows and put mankind to this challenge:

> That a little reflection must convince everyone, that war, like every other wrong custom, may be abolished by the right use of appropriate means. Its continuance depends entirely on the will

[30]C Burnham, 'What is the purpose of the United Nations'? *The Annals of the American Academy of Political and Social Science* (1947) 1 3-4; L Dolivet, *United Nations: A Handbook on the New World Organization* (1946) 15-23.
[31] G Mower, *Observer Countries: Group Members of the United Nations* (1966) 266-277.
[32] G Bennette, Dignity and Governance: The Universal Declaration of Human Rights in the book *Technicians of Human Dignity* (2016) 13-19; Global Citizenship Commission, *The Universal Declaration of Human Rights in the 21st Century World* (2016) 357-359.
[33] United Nations World Conference on Human Rights, Vienna Declaration and Programme of Action *International Legal Materials* (1993) 1161-1670.
[34] M Newitt, Climate Change and the Specter of Statelessness, *Georgetown Environmental Law Review 35* (2023).
[35] The Advocate of Peace, "A congress of Nations, for the Peaceful Adjustment of All International Disputes (1837-1845)" *2 10* (Sage Publications, Inc. November 1838) 121-132.

> of men. It exists solely because they choose it; and, whenever that choice shall be changed, the practice must of necessity come to an end at once, and forever. It is a foul libel on mankind to suppose, that their war-sentiments cannot even by the gospel be changed into a permanent, universal preference of peace. There is nothing in their passions or habits; nothing in the structure of society or government; nothing in the nature, long continuance, and deep inveteracy of this custom; nothing in all the influences wages been accumulating in its support; nothing in the past history, the present condition, or the future prospects of our race, to forbid the hope of its entire abolition.

This perspective emphasises human agency, moral transformation, and the power of collective choice in achieving lasting peace.

The peaceful settlement of international disputes is deeply rooted in the fundamental principles of international law, particularly sovereignty, non-interference, self-determination, and the prohibition on the use of force. The UN Charter's Article 2(3) and Article 33(1) specifically mandate states to resolve disputes through peaceful means, reinforcing the principles of *pacta sunt servanda* (agreements must be kept) and good faith. Furthermore, customary international law emphasizes the duty of states to negotiate, mediate, or arbitrate conflicts, aligning with the principles of equality, reciprocity, and non-discrimination. By upholding these principles, international law provides a framework for states to resolve disputes peacefully, promoting stability, justice, and cooperation within the global community. Effective implementation of these principles is crucial for preventing conflict escalation and fostering durable peace.

ESTABLISHING THE FUNDAMENTAL PRINCIPLES UNDER INTERNATIONAL LAW

International law developed to fill the vacuum left by the “medieval order” that was used to create legal relations between countries in Europe.[36] The creation of the “international legal personality” of the various independent countries was a key requirement for the development of international law.[37] Moreover,

[36] Territorial Integrity and Political Independence; see also History of International Law, Ancient Times to 1648.
[37]Max Planck Encyclopedia of Public International Law www.mpepil.com.

the sovereignty of states was also considered crucial for the successful creation of international law.[38] According to the Permanent Court of International Justice (PCIJ), a state is said to be 'Independent' when it has the authority to decide on matters 'economic, political, financial or other' as stated in the advisory opinion of the court in the *Customs Régime case*[39] between Germany and Austria – and the said state must also have the authority to exercise its powers on the frontiers of the state. The very essence of the state is also stated under the "*Montevideo Convention on the Rights and Duties of States*" of 1933,[40] which emphasises the linkage of a "defined territory and a permanent population, a government, and capacity to enter into international relations" as the core attributes of a state.

The most important principle under the Charter of the UN is the 'sovereign equality' of members. The UN Charter stipulates the prohibition of any threat on the use of force 'against the territorial integrity or political independence of any state',[41] and the sovereignty of states, which must be respected by all and to which there should not be any interference.[42] All of these are deeply rooted in the geography of the state. As intimated by the UN Secretary-General at the General Assembly in 2004, international law emphasises equality of all states as a fundamental requirement in world affairs. So, at the international level, "all states – strong and weak, big and small – need a framework of fair rules, which each can be confident that others will obey. Fortunately, such a framework exists. From trade to terrorism, from the law of the sea to weapons of mass destruction, states have created an impressive body of norms and laws".[43] International law is provided for in the *Statute of the International*

[38] History of International Law 1648 to 1815; History of International Law 1815 to World War I. Max Planck Encyclopedia of Public International Law www.mpepil.com.
[39] *Customs Régime Between Germany and Austria*, Advisory Opinion Series A/B No 41 (5 September 1931) 12.
[40] Article 1 reads: 'The state as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with the other states)" LNTS No. 3802.
[41] Article 2 (4) of the United Nations Charter adopted on 26 June 1945 and came into force (24 October1945).
[42] Ibid, Article 2(7).
[43] "Address by Kofi Annan at the opening of the General Debate of the 59th Session of the General Assembly New York (September 2004)" available at http://www.un.org/Pubs/chronicle/2004/issue3/0304p4.asp.

Court of Justice (1945).[44] Further, in the well-known "*Lotus*"[45] case, the Permanent Court of International Justice states as follows:

> International law governs relations between independent states. The rules of law binding upon states emanate from their own free will as expressed in conventions or by usages generally accepted as expressing principles of law and established in order to regulate the relations between co-existing independent communities or with a view to the achievement of common aims.

The primary significance of international law is the establishment of a 'regime" to regulate the relationship that should exist among states. Fundamentally, international law confers 'legal superiority' to the territorial sovereignty and the security of the state.[46] International law, most importantly, is created by international agreements, which establish "civilised practices" that bind nation-states after they have ratified and signed them.[47] It is these rules and practices that stipulate laid down 'patterns of conduct' that states are under an obligation to honour at the international level.[48] According to Kiss and Shelton,[49] international law is seen as the "regime of rules that binds states in the global arena and regulates how states relate to each other".

International law consists of "rules and principles of general application dealing with the conduct of states and international organisations and with their relations *inter se*, as well as with some of their relationships with persons, whether natural or juridical".[50] Hobbes argues succinctly in The Leviathan on the need to have a sovereign authority with the power to make binding decisions to ensure international security as follows:[51]

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[44] Article 38 (1) of the Statute.
[45] *The S. S. Lotus*, PCIJ Ser. A (No 10 1927).
[46] Y Roznai, The insecurity of human security, *Wisconsin International Law Journal* (2014) 32, 95.
[47] MN Shaw, *International law* (7th edn. New York CUP 2014).
[48] Ibid.
[49] A Kiss and D Shelton, *Guide to international environmental law* (Leiden: Brill (2007).

[50] American Law Institute, Restatement of the Law, The Foreign Relations Law of the United States (3rd edn. 1988) para. 101, 222.
[51]T Hobbes, The Leviathan II XVII 2 www.oregonstate.edu/instruct/phl302/texts/hobbes/leviathanc.html#CHAPTERXVII.

> And covenants, without the sword, are but words and of no strength to secure a man at all. Therefore, notwithstanding the laws of nature (which everyone hath then kept, when he has the will to keep them, when he can do it safely), if there be no power erected, or not great enough for our security, every man will and may lawfully rely on his own strength and art for caution against all other men.

Brierly has also intimated the need for a binding authority at the international level: "Man, whether he is a single individual or whether he is associated with other men in a state, is constrained, in so far as he is a reasonable being, to believe that order and not chaos is the governing principle of the world in which he has to live". Scott[52] has opined that one key characterisation of governance at the global level in the last century is that it is "rule-based" and that in modern times, this rules-based global order is underpinned by international law. One of the issues that has confronted humanity up to today is the law regarding war and how it should be resolved by international law.[53] Grotius placed all of international law under the *De Jure Belli ac Pacis*. Grotius, quoting Cicero, intimated that "there is no middle ground between peace and war". The House of Lords speaking through Lord MacNaghten in *Janson* v. *Driefontein Consolidated Mines Ltd*[54] stated it succinctly as follows:

> I think the learned counsel for the respondent was right in saying that the law recognises a state of peace and a state of war, but that it knows nothing of an intermediate state which is neither one thing nor the other-neither peace nor war.

International law has grown in the last century to include a "growing body of anthropological research on its principles and practices". This has helped social scientists, activists, and lawyers to understand how international law develops and works.[55] The principal frameworks of modern international law hinge on the following: how to deal with war, the treatment of the combatants engaged in the war as well as non-combatants and the international peace and security;

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[52] SV Scott, *International law in world politics: An Introduction* (3rd edn. 2017).
[53] PC Jessup, Should international law recognise an intermediate status between peace and war? *The American Journal of International Law* 48, 1 (January 1954) 98-103.
[54] [1902] A.C. 484
[55] SE Merry, Anthropology and international law First published online as a Review in Advance (27 April 2006). The Annual Review of Anthropology is online at anthro.annualreviews.org.

the peaceful settlement of disputes; economic arrangements and trade agreements; the regulation of the global commons such as space, polar regions, and the oceans; environmental issues; the law of the sea; and human rights.[56]

Aside from the principle of the sovereignty of nations, another key principle is non-interference. This principle prohibits states from intervening in the internal or external affairs of other states. This respects territorial integrity, political independence, and sovereignty. The UN Charter's Article 2(7) and the 1970 Declaration on Principles of International Law reaffirm this principle. States are barred from coercion, subversion, or intervention in internal conflicts, safeguarding national autonomy.

Self-determination empowers people to freely determine their political status and pursue economic, social, and cultural development. This principle rejects colonialism, foreign domination, and oppressive regimes. The UN Charter's Article 1(2) and the 1966 International Covenant on Civil and Political Rights enshrine self-determination. Nations recognize autonomy, independence, and national identity.

The prohibition on the use of force bans threats or aggression against territorial integrity or political independence. Peaceful dispute resolution, non-aggression, and self-defense are emphasized. The UN Charter's Article 2(4) and the 1928 Kellogg-Briand Pact establish this principle. Military intervention is restricted, except for self-defense or UN-authorized actions.

These interconnected principles of international law regulate state interactions, ensuring national sovereignty, territorial integrity, and global cooperation. They underpin international relations, fostering diplomacy, peace, and stability. Effective implementation relies on adherence by states, international organizations, and the global community.

JUS COGENS NORMS

There are key principles in international law that are known and accepted in all jurisdictions, which have become settled practices and known as customary law, *jus cogens* –which translates as (compelling law), in the same way as much as 'informal law and custom' do form the fundamentals for the social ordering of norms in communities.[57] *Jus cogens* norms are principles that have become

[56] Merry (n 66).
[57] Nader 1969, 1990; Nader & Todd 1978.

settled to an extent that they need not be enforced in the day-to-day scheme of things, and they do not depend on consent. The Vienna Convention of the Law of Treaties 1969, defines international agreements that have become *jus cogens* norms as those "accepted and recognised by the international community of states as a whole as a norm from which no derogation is permitted."[58] Some of the norms of international law generally proceed from "nonbinding resolutions or statements of general principles." Typical among these are the UDHR, ICCPRs, as well as the ICESCRs, which have become settled practices over time through UN resolutions and discussions.

States become bound by international treaties and are obliged to comply with their terms after ratification. Further, non-binding declarations and treaties may in the future become crystallised and binding.[59] The world has gone through a lot of change since the end of the Cold War, which has also culminated in significant changes in international law. Insofar as the international scene is made up of sovereign states, international law was seen as a peaceful means of resolving all differences.[60] The key features of the state are catered for under international law, including its special 'rights and privileges'.[61] Moreover, as states promulgate laws to govern themselves, their consent must be sought before any international document can bind them. Hersch Lauterpacht has opined that international law should function principally to bring peace to all nations and the protection and promotion of fundamental human rights.[62]

This perspective has been buttressed by Hans Kelsen,[63] whose works include "Peace through Law", which emphasises that the maintenance of international peace could be attained through patience and commitment to civilised international norms and legal institutions such as international tribunals and arbitration fora. Kelsen[64] emphasised that, "He who wishes to approach the aim

[58] Art. 53, Vienna Convention on the Law of Treaties 155 (23 May 1969) 331 U.N.T.S. quoted in Satterthwaite (2005) 43.
[59] Bederman 2001 p 27.
[60] O Kessler, The same as it never was? Uncertainty and the changing contours of international law *Review of International Studies* 37 5 (Cambridge University Press December 2011) 2163-2182.
[61] Kiss & Shelton (n 58)
[62] H Lauterpacht, The Grotian Tradition in International Law, 23 *Brit. Y.B. Int'l Law 1, 51* (1946).
[63] H Kelsen, Peace through law (1944); ME O'connell, Peace and war, In *The Oxford Handbook Of The History of international law* 272 (Bruno Fassbender & Anne Peters eds. 2012).
[64] Ibid.

of world peace in a realistic way must take this problem quite soberly, as one of a slow and steady perfection of the international order". In later stages, Grenville Clark and Lois Sohn[65] also researched into getting "World Peace through World Law" where they envisioned the establishment of a "World Conciliation Board", a "World Equity Tribunal", compulsory jurisdiction for the ICJ, transferring the important responsibility for the maintenance of international peace and security from the Security Council to the General Assembly, and the disarmament of the world undertaken by regional courts.

This resonates with the Kantian conception of the interlinked values of democracy and development. Hence, the significance of international institutions ensuring the survival of mankind, such as "FAO, IFAD, UNESCO, WHO, ILO, World Bank, IMF, WTO, DSM, UN Climate Change Regime, and the UN Environment Programme, UN Oceans, the UN human rights committees" and UN programmes addressing sustainable development and poverty reduction.[66] A peaceful way for the settlement of disputes is at the heart of most legal systems and norms as well as sub-systems, whether in the national, regional, or international space.[67] The peaceful resolution of international disputes is fundamental to the continuous and uninterrupted process that helps solidify international law, where all states are treated equally with respect to the rights to be enjoyed.[68] Bailliet and Mujezinovic,[69] has also posited that one challenge faced by the world when articulating peace as a key pre-requisite within the international context is what constitutes peace exactly and how to promote it through international law.

DEFINING THE CONCEPT OF "PEACE"

Peace is derived from the Latin word *pax*, which means "a pact, a contract, an agreement to end war or any dispute and conflict between two people, nations,

[65] C Grenville and LB Sohn, "World peace through world law" (1958).
[66] Bailliet (n 45) 308-312.
[67] FG von der Dunk, Space for dispute settlement mechanisms - dispute Anisms - Dispute resolution mechanisms for anisms for space? A few legal considerations (University of Nebraska Lincoln 2001).
[68] Pinteală (n 49).
[69] CM Bailliet and KL Mujezinovic eds. (2015).

or antagonistic groups of people".[70] According to Einstein,[71] "Peace is not merely the absence of war, but the presence of justice, of law and order–in short, of government." Peace, consequently, is seen as "a state of harmonious relations and the absence of violence".[72] The concept of peace also involves the inculcation of "nonviolent" values as part of the civilised practices of human behaviour in society.[73] Fundamentally, peace connotes the existence of affairs where there are no antagonisms between societies and intractable conflict, the absence of "aggressive and disturbing patterns" of life in society, and the nurturing of respect and tolerance for the rights of others.[74]

Scholars in the field of peace studies have placed a distinction between positive and negative peace. Galtung[75] viewed positive peace as an occurrence in a society where the human family is integrated in such a way that there are no structures that perpetuate violence. Positive peace entails "social justice", where all the causes of violence in the social, economic, and political fronts in society have been eliminated.[76] This also involves respect for fundamental human rights and the rule of law. Structural violence hinges on instances within the society where there are unfavourable policies and discriminatory practices that put the individual in a suffering mode.[77] Negative peace entails the absence of intractable violence, 'physical or direct violence', while positive peace refers to a situation in life where there are just and favourable conditions for an individual's development.[78] From this perspective, it means there should not be institutions and structures that maintain violent behaviours. Societal violence should also be absent, and the existing social structures should be geared towards inculcating values of fairness, justice, and social well-being in individuals within the society.

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[70] K Nakamura, Art Education for Peace─ John Dewey's view of intercultural experience after his visit to Japan in 1919, *Bulletin of the Graduate School of Education* 21 67 (Hiroshima University Learning and curriculum development December 2018) 73-81.
[71] A Einstein, Einstein on Peace, Nathan and Norden (Eds) (New York Schocken 1968).
[72] KA Tuffuor, Peace, justice and security in Ghana: The need for peace education *Elsevier* 3 (World Development Sustainability 2023).
[73] Nakamura (n 90).
[74] Ibid.
[75] Galtung, 1996a, VIII
[76] Ibid.
[77] D Hicks, Education for peace: principles into practice *Cambridge Journal of Education* 1, 17 (February 1987) 3-12.
[78] Tuffuor (n 92).

Peace also entails an environment characterised by the development of "social, economic and political justice" which fosters the development of 'positive peace'.[79] Ibeanu[80] buttressed this when he stated that peace is also "sociological", and could be attained by citizens in situations where there are no antagonisms in society and people are able to go about their objects in life without obstacles. Political peace denotes situations where the institutions in society become mature and credibly perform their key functions without any hindrance.[81] Peaceful coexistence resonates more with "negative peace" than "positive peace", and its fundamental components were incorporated within the UN Charter[82] and the 1970 "UN Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States", which is now considered customary international law.[83]

Galtung's general theory of "Peace by Peaceful Means",[84]is grounded on the notion of 'conflict' in his fundamental peace paradigm as follows:

> ...Conflict is much more than what meets the naked eye as 'trouble', direct violence. There is also the violence frozen into structures, and the culture that legitimises violence. To transform a conflict between some parties, more than a new architecture for their relationship is needed. The parties have to be transformed so that the conflict is not reproduced forever.

Peace theory stipulates two components of it, that is negative peace which refers to the "absence of war, prevention of war, termination of war, transition from war" as stipulated under the UN Charter:[85] "The second component is about positive peace, which encapsulates international relations, global cooperation, "social justice, respect for human rights, including equality and non-discrimination, and the elimination of structural violence that causes

[79] Hicks (n 97).
[80]O Ibeanu, Conceptualising peace: Introduction to peace and conflict studies in West Africa (Ibadan Spectrum Books Limited 2012) 3-14.
[81]E Rwamasirabo, Education for democracy, dialogue and peace. 2007 August 30. Retrieved from https://archive.unu.edu/globalization/2007/files/ws2_presentations_EducationForDemocracy.pdf (accessed on 09/04/2023).
[82]UN, Charter of United Nations (n 40).
[83] Bailliet (n 45).
[84] J Galtung, Peace by peaceful means: Peace and conflict, development and civilization, *Peace by Peaceful Means* (1996) 1-292.
[85] Article 2 (4) (n 40).

inequality, poverty, and exclusion" as advocated by Johan Galtung. This therefore calls for the need to pursue policies that enhance positive peace. Article 55 of the UN Charter stipulates that peace has 'inter- and intrastate' dimensions, which makes it imperative to promote respect for fundamental human rights, which is a pre-requisite for peace.[86]

The aim of positive peace is to bring to the fore many social, economic, and political measures, all of which are contingent on law.[87] As Schaller[88] has argued, "the establishment of conditions for a positive and durable peace is also inseparably linked to effectively guaranteeing human rights. The "UN Declaration on the Right to Peace"[89] underscores the positive realm of peace that involves "mutual understanding, cooperation, and socioeconomic development," and this resonates with the agenda of the UN, and "the world commitment to eradicate poverty and to promote sustained economic growth, sustainable development, and global prosperity for all, and the need to reduce inequalities within and among countries".

In 1975, Immanuel Kant's essay, "Toward Perpetual Peace: A Philosophical Sketch"[90] starts with pessimism, that humanity can only find eternal peace in a vast grave where all the horrors of violence or those responsible for them would be buried". Kant pioneered the modern definition of peace as developing from the 'state of nature among nations under a new form of cosmopolitan law based on a peaceful federation of all the peoples of the earth'.[91] Would it then really be impossible to obtain real peace even in the 21st century world? A fundamental objective of the modern international legal order, which is founded upon the Charter of the United Nations, is the maintenance of international peace and security.

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[86] Article 55 (n 40).
[87] C Rojas-Orozco, International Law in the Colombian Transition Book: International Law and Transition to Peace in Colombia *Assessing Jus Post Bellum in Practice Book* (Brill Nijhoff 2021).
[88] *Article 154, Congreso de la República de Colombia, Ley 1448 Ley de Víctimas y Restitución de Tierras.*
[89] UN General Assembly, 'Declaration on the Right to Peace,' Pub. L. No. A/hrc/res/32/28 (2016) 2–3).
[90] I Kant, "Toward perpetual peace: A philosophical sketch", in H.Reiss (ed.), Kant's Political Writings (Cambridge 1970) 105.
[91] J Bohman and ML Bachmann (eds.), Perpetual Peace: Essays on Kant's cosmopolitan ideal (Cambridge The MIT Press 1997) I.

The UN Charter[92] contains not less than 35 references to "peace" in which member states are to relate to one another in the international world underpinned by international law to protect all. Articles 1(1, 2), 2(3, 6), 11(1, 2, 3), 12(2), 15(1), 18(1), 23(1), 24(1), 26, 33(1), 34, 37(2), 39, 42, 43(1), 47(1), 48(1), 51, 52(1), 54, 73, 76, 84, 99, 106 emphases "peace", while peace and its derivations such as "peaceful", "pacific", "peace-loving" are also mentioned in at least nine other Articles of the Charter. These are Articles 1(1), 2(3), 4(1), 14, 33(1), 35(2), 38, 52(2, 3), 55). This is ample testimony that the Charter was made to promote a peaceful world.

INTERNATIONAL LAW AND THE PEACEFUL SETTLEMENT OF DISPUTES

There are several means for the settlement of international disputes, which are crucial for the maintenance of international peace and security. The UN Constitutive Charter[93] stipulates as follows:

> That to maintain international peace and security it is necessary for the United Nations to take two kinds of measures: (a) to take effective collective measures to suppress acts of aggression; and (b) "to bring about by peaceful means, and inconformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace.

The implicit premise of this provision in the charter is that, if disputes can be resolved through peaceful means which is acceptable to all the parties, then such a dispute will not degenerate to threaten international peace and security and further escalate into a war of aggression.[94] The general part of the "Definition of Aggression" reads as follows:[95] "Aggression is the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations, as set out in this Definition". Under Article 2 of the 1974 Definition, "the first use of armed force by a State in contravention of

[92] UN Charter (n 40).
[93] Article 1 (1) (n 40).
[94]LB Sohn, In Theory Peaceful Settlement of Disputes and International Security (Accessed November 18 2022) Downloaded from HeinOnline.

[95] Article 1, Definition of Aggression.

the United Nations Charter constitutes prima facie evidence of an act of aggression although the Security Council may, in conformity with the Charter, conclude that a determination that an act of aggression has been committed would not be justified in the light of other relevant circumstances, including the fact that the acts concerned or their consequences are not of sufficient gravity.[96]

Further, Article 2 (3) of the UN Charter places an obligation on all member states of the organisation to act in full compliance with the dictates of this provision to "settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered." In essence, the charter, in its statement of purpose and enunciation of members' obligation, places emphasis on the linkages between "the maintenance of international peace, security, and justice." The Charter allows for the free choice of settlement methods and is clear on the objects to be achieved by such procedure.[97] Two main approaches in the settlement of international disputes are available, with the first being those agreed to bind the parties in treaties and conventions in the event of dispute settlement when they occur, and those put up by parties after a dispute has arisen.[98] Where the parties themselves have devised a specific procedure for the settlement of an issue, and the disagreement could be resolved by either of the two approaches, a party can elect to use either of the two. If the parties to a dispute have accepted in advance a particular procedure for the settlement of specified categories of disputes, and a dispute falls within one of these categories, any party to the dispute can unilaterally submit the dispute to that procedure.[99]

In some instances, agreements would have to be reached by the parties to the dispute on which procedure to adopt before one could be selected. However, good faith negotiations, diplomatic settlement, conciliation, and arbitration are some of the procedures to be adopted in the settlement of disputes.[100] According to the Manila Declaration on the Peaceful Settlement of International Disputes,[101] which the General Assembly of the UN approved in

[96] UN GA Res. 3314 (XXIX), Annex.
[97] Un Charter (n 40).
[98] Ibid.
[99] Sohn (n 114).
[100] Sohn (114).
[101] UN General Assembly, "Manila Declaration on the Peaceful Settlement of International Disputes (1982)".

1982, "states shall seek in good faith and in a spirit of co-operation an early and equitable settlement of their international disputes" by negotiation or other peaceful means of their own choice. Other dispute settlement methods that the Charter sanctions are "consultations, good offices, mediation, fact-finding, inquiry, and judicial settlement". Moreover, the Security Council established under Article 23 of Chapter V and Article 36 of the UN Charter to also make recommendations to the disputing parties "appropriate procedures or methods of adjustment" and to admonish parties to the International Court of Justice for the just settlement of legal disputes.

The Security Council has the mandate of keeping the peace under Chapter 5 of the Constitutive Charter,[102] in situations where the parties are unable to resolve their differences on their own and may proffer a solution, especially in instances where the said conflict tends to jeopardise international peace and security. Article 33 (1)[103] under Chapter VI on the settlement of disputes states as follows:

> 1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.
>
> 2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means. The Security Council is enjoined to abide by the dictates of the charter that the solution to the problem as stipulated supra should not compromise "the principles of justice and international law.

The 1970 General Assembly Resolution established "friendly relations among states."[104] The International Court of Justice (ICJ) reflected the customary international law in the Court's decision on *Military and Paramilitary*

[102] UN Charter (n 40).
[103] UN Charter (n 40).
[104] GA Res. 2625 (XXV) of 1970, "Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations".

Activities in and against Nicaragua.[105] Article 17 of the Declaration[106] emphasised the "principle of non-intervention in matters within the domestic jurisdiction of any state," including that:

> [n]o State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. … No State may use or encourage the use of economic, political or any other type of measures to coerce another. State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind.

From this viewpoint, it could be stated that the declaration sought to prohibit intervention in the domestic affairs of independent states, even beyond the territorial boundaries of the state, which is crucial to the principle of the "sovereignty of the state". The Bandung Declaration on principles for the Settlement of all international disputes by peaceful means, such as negotiations, conciliations, arbitration, or judicial settlement, as well as other peaceful means of the parties, was also adopted by the Foreign Policy Committee of African countries, which had just become independent. This resonates with Article 1 of the Charter of the UN. This was adopted by the first Conference of African States that had just become independent in April 1958 in Accra.[107] Applications for membership to the UN in the first decade were sometimes rejected by the UNSC purely for political reasons. In some instances, they were couched as "bona fide legal considerations". First, either the sovereignty of the state was in doubt (in the case of Jordan and Ceylon),[108] and secondly, the state was not "peace-loving or willing to carry out its obligations under the Charter" (in the case of Albania, Bulgaria, Hungary, and Romania),[109] or that the state in question is incapable of carrying out the obligations enshrined under the Charter (in the case of the Mongolian People's Republic).[110]

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[105] *Nicaragua v United States of America* Merits, Judgment [1986] ICJ Rep. 14 at para. 191.
[106] UN, "Friendly Relations among states Declaration (1970)".
[107] Awakening Africa (Accra 1963) p 85).
[108] DW Greig, The advisory jurisdiction of the International Court and the settlement of disputes between states *The International and Comparative Law Quarterly 15, 2* (Cambridge University Press April 1966) 325-368.
[109] Ibid.
[110] Ibid.

The intervention of international NGOs over the years has also led to the "Third Committee of the General Assembly" approving the "Declaration of the Right to Peace" in 2016. It simply rehashed the UN Charter's principles on the "prohibition of the threat or use of force against the sovereignty of another state, ensuring the peaceful settlement of disputes, the obligation of nonintervention, cooperation, equal rights and self-determination of peoples, and sovereign equality". Moreover, it outlawed terrorism and stipulated in the following terms:

> peace and security, development and human rights are the pillars of the United Nations system and the foundations for collective security and well-being, and recognising that development, peace and security and human rights are interlinked and mutually reinforcing." It calls for attention to peaceful communication, [r]ecognizing that peace is not only the absence of conflict but also requires a positive, dynamic participatory process where dialogue is encouraged and conflicts are solved in a spirit of mutual understanding and cooperation, and socioeconomic development is ensured.

The "Declaration of the Right to Peace"[111] mandates states to be the key referents when it comes to the guarantee of the necessary architecture for the enjoyment of both internal and external peace. It is incumbent on states to ensure the implementation of "respect, promote equality and non-discrimination, justice and the rule of law, and guarantee freedom from fear and want as a means to build peace within and between societies". Article 4 stipulates an international system for the "promotion of institutional peace, strengthening both international and national institutions for Peace Education to strengthen relations among the people of the world, foster the spirit of tolerance, dialogue, cooperation and solidarity, invariably, establishing the rule of law within the international society".[112]

Article III of the Organisation of African Unity Charter[113] also emphasises peaceful settlement of disputes, which states as follows:

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[111] *Article 2*.
[112] C Greenwood, The Practice of International Law Proceedings of the Annual Meeting 112 (American Society of International Law April 2018) 161-167.
[113] *Charter of the Organisation of African Unity*.

> The Member States, in pursuit of the purposes stated in Article II, solemnly affirm and declare their adherence to the following principles: 4. [Peaceful] settlement of disputes by negotiation, mediation, conciliation or arbitration. Furthermore, Article XIX provides that: Member States pledge to settle all disputes among themselves by peaceful means and, to this end decide to establish a Commission of Mediation, Conciliation and Arbitration, the composition of which and conditions of service shall be defined by a separate Protocol to be approved by the Assembly of Heads of State and Government. Said Protocol shall be regarded as forming an integral part of the present Charter.

In the peaceful settlement of disputes between nation-states, international law obliges member states to enter into negotiations geared towards ensuring peace and to submit all disputes to an international tribunal, a "board of arbitration or conciliation".[114] The failure of the League of Nations, coupled with horrendous violence with several million dead, motivates mankind now not to lean on the powers of the state, because in contemporary times international politics has been overshadowed by a myriad of "international institutions and nongovernmental organisations" that function principally in the promotion of social and economic cooperation.[115]

THE UN AND THE PEACEFUL SETTLEMENT OF INTERNATIONAL DISPUTES

There are two schools of thought when it comes to examining the contribution of the UN to the settlement of international disputes. The first group sees a glass more than half full, with the potential of the UN to achieve more, if only the members will resort to the dispute resolution mechanisms stipulated under the Charter.[116] This group consists of the "institutionalist or functionalist" whose philosophical orientation is that the UN, as an independent international

[114] The East China Sea: The Role of International Law in the Settlement of Disputes *Duke Law Journal* 4 (Published by Duke University School of Law September 1973) 823-865
[115] O Okoi, limits of international law: settlement of the Nigeria-Cameroon territorial conflict *International Journal on World Peace* 33, 2 (Published by Paragon House June 2016) 77-102.
[116] SR Ratner, Image and reality in the UN's peaceful settlement of disputes *EUR. J. INT'l L.* 6 426 (1995).

organisation, can achieve more in the settlement of international disputes.[117] This is reinforced by Chapter VI of the UN Charter, which dwells on the peaceful resolution of international disputes. The other school consists of 'skeptics' of Chapter VI on the peaceful settlement of disputes who see the "glass nearly empty," who see the organisation as a failure.[118]

The functionalist group views the UN as successful in view of the various diplomatic achievements which it has been able to achieve, and the resolution of many disputes which had the potential to destabilise international peace and security.[119] Others include successful interventions in Kashmir, Cyprus, the Golan Heights, and elsewhere. They always see the UN as a unique international organisation for the ventilation of views which hitherto could have led to an international crisis of great magnitude. Chapter VI of the UN Charter has become a 'shorthand' for all the activities that come under the settlement of international disputes and the maintenance of peace and security.[120] Article 1(1) of the UN Charter spells out the main object of the organisation as the maintenance of peace and eliminating threats to peace, and bringing about the peaceful settlement of disputes in the world.

The same Chapter VI mandates the UN in general terms to resolve disputes through peaceful means. This conforms with the obligation of all parties under Article 33 to resolve all disputes by peaceful means. The drafters of the Charter were mindful of the fact that, if the Security Council was given the power to investigate a matter first, that would whittle the responsibility of member states, and so this was put under Article 34.[121] However, the Charter places four responsibilities on the Council. First, to urge disputing parties to end any agreement through any of the "traditional peaceful means of settlement.[122] Second, the Council was also to investigate disagreements between parties and to determine its implications on international peace and security.[123] Thirdly, to make appropriate recommendations on 'procedures or methods of adjustment'

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[117] Ibid.
[118] Ibid.
[119] Franck and Nolte, 'The Good Offices function of the UN Secretary-General', and Morphet, 'UN Peace-keeping and Election-Monitoring', in A Roberts and B Kingsbury (eds), United Nations, Divided World: The UN's Roles in International Relations (2 edition 1993) 143, 183.
[120] Ratner (n 139).
[121]LM Goodrich, E Hambro and AP Simons, Charter of the United Nations: Commentary and Documents (3d revised edition 1969) 259-60.
[122] Article 33(2) of the UN Constitutive Charter.
[123] Article 34 (n 40).

for the settlement of such disputes.[124] And lastly, but not least, to proffer appropriate settlement terms for the expeditious resolution of such disputes.[125] Further, under Article 38 of the Charter, the parties to the dispute can also reach the Council for a solution to the dispute at hand, and the Council can make recommendations. In the *Corfu Chanel* Case,[126] the Security Council recommended that Albania and Britain take their disputes concerning mines placed in the channel to the World Court.

The Council also recommended that India and Pakistan settle their row over Kashmir in a plebiscite to be done under the supervision of an administrator appointed by the UN. Through a Security Council resolution in 1948, it admonished Israel and the Arab States to lend their support to the UN mediator that was appointed to help the warring parties resolve their disputes.[127] The Council again made recommendations to the Netherlands and Indonesia to resolve their pending disagreement via the UN Commission for Indonesia.[128] Even though the realists who support a stronger state are against Chapter VI, which they claim is the main reason why the UN cannot work efficiently as an international "peace actor", the institutionalists are, however, appreciative of the significant role of the UN in ensuring international peace.[129] They also portend that, "but for the UN," the world would not be enjoying the peace prevailing currently.[130]

With regard to the settlement of international disputes, paragraph (3) of Article 2 of the UN Charter promulgated in 1945 stipulates that "all Members shall settle their international disputes by peaceful means in such manner that international peace and security, and justice are not endangered." The peaceful settlement of international disputes hinges on this. The article enjoins members of the UN to resolve their international disputes by peaceful means so as not to jeopardise international peace and security. Article 33(1) of the UN Charter stipulates the peaceful settlement of disputes as follows: "negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional

[124] Article 36(1).
[125] Article 37 (2).
[126] UN Security Council Resolution 22 (9 April 1947 UN SCOR, Res. and Dec. 2nd Year 3, SINF/2/Rev.1 (I).
[127] Security Council Resolution 50 (May 29 1948) 20.
[128] Security Council Resolution 67 (January 281949) UN SCOR Res. 2, S/INF/3/Rev.1).
[129] Ratner (n 139).
[130] Ibid.

agencies or arrangements, or other peaceful means". This peaceful way of settlement of disputes is accepted as a binding principle of international law by African States.[131]

Further, the Organisation of African Unity Charter[132] places an obligation on Member states to resolve all their disputes in a peaceful way through the use of "negotiation, mediation, conciliation and arbitration". The coming into inception of the United Nations Convention on the Law of the Sea in 1982[133] ("UNCLOS"), has been one of the most remarkable developments in the peaceful settlement of international disputes, since members ratified the UN Charter as well as the Statute of the International Court of Justice.[134] The principle stated in article 2(3) of the Charter[135] is developed further and carried into Article 33, which provides as follows:

> The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

Even though the UN performs crucial functions in the world towards the advancement of human welfare, the framers of the Charter were convinced without a shred of doubt that the organisation would be able to achieve much success if it were able to ensure peace in the world. The mandate to attain this primary objective was not conceived in narrow terms in San Francisco during the promulgation of the Charter.[136] The various governments that were represented at the conference to draft the Charter did not doubt that there was an imperative need for cooperation to promote human welfare in order to create the necessary conditions for international peace and security. It was also agreed by the participants at the conference that, the maintenance of international

[131] T Maluwa, The peaceful settlement of disputes among African states, 1963-1983: Some conceptual issues and practical trends, *The International and Comparative Law Quarterly* 38, 2 (April 1989) 299-320.
[132] Article 111 (4).
[133] UNCLOS coming into force on 16 November 1994.
[134]AE Boyle, Dispute settlement and the Law of the Sea Convention: Problems of fragmentation and jurisdiction *The International and Comparative Law* (1997) 37-5.
[135] UN Charter (n 40).
[136] Goodrich et al., (n 144).

peace and security was not only simply about the repression of violence. It was imperative that principles and procedures be adopted that would permit disputes to be settled and conflicting interests to be 'adjusted' through peaceful means without resorting to violence.[137]

On actions that could be taken by the Security Council to preserve international peace and security, Article 39 of the UN Charter emphasises that the Security Council, "shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Article 41 and 42 to restore international peace and security". Article 36(1) of the Charter[138] provides that: 'the Security Council may, at any stage of a dispute of a nature referred to in Article 33 or of a situation of a like nature, recommend appropriate procedures or methods of adjustment'. Paragraph 2 of the Article directs the Council to 'take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties'. Article 37(2) empowers the Council to recommend 'such terms of settlement as it may consider appropriate'. Moreover, Article 36 mandates the Security Council to recommend the modalities for settlement or the framework within which a settlement process may be undertaken. Article 37 enables it to directly recommend the terms of settlement in Article 1.[139]

On actions that come under the domain of self-defense, Article 51 stipulates that "nothing in the present Charter shall impair the inherent right of an individual or collective self-defense if an armed attack occurs against a Member of the United Nations until the Security Council has taken measures necessary to maintain international peace and security". These were deemed to be the only legitimate exceptions to war. The principles of non-intervention in the domestic affairs of member countries were further emphasised by the General Assembly declarations, such as the "Declaration on the Inadmissibility of Intervention" adopted by the UN,[140] which made it unlawful to intervene

[137] Ibid.
[138] UN Charter (n 40).
[139] L Conant, "Whose Agent? The interpretation of international law in national courts," in Jeffrey L. Dunoff and Mark A. Pollack (ed.), Interdisciplinary perspectives on international law and international relations: The state of the art (Cambridge: Cambridge University Press).
[140] "Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their independence and Sovereignty, G.A. Res. 20/2131 (XX), UN. Doc. A/Res/20/2131 (21 December 1965)".

either "directly or indirectly, for any reason whatever, in the internal or external affairs of any other State".

Article 43 sets a framework for the conclusion of agreements and arrangements between the United Nations Member States contributing to the maintenance of international peace and security and the Security Council. Article 52 of the UN Charter requires parties to regional dispute settlement arrangements to make every effort to achieve pacific settlement through such arrangements or the agencies (organisations) they create. Pellet[141] is of the view that there is "force-centric" which sees the obligation of peaceful settlement as a "corollary" to the non-use of force under Article 2(4) of the Charter. In the view of Brownlie, there is no obligation on parties under public international law to resort to the settlement of disputes; unless resorting to the use of force, the parties in dispute have the free will to decide on the method that is favourable to them.[142] As Pan explains, this view interprets Article 2(3) of the Charter to say that as long as States do not resort to force, they satisfy the obligation of peaceful settlement.[143] A second, "peace-centric" view places a premium on Article 33 of the UN Charter as the real source of the obligation of peaceful settlement.[144] Article 103 of the Charter stipulates explicitly as follows: "In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail."

THE INTERNATIONAL COURT OF JUSTICE (ICJ) AND PEACEFUL SETTLEMENT OF DISPUTES

The ICJ was established under the Statute of the International Court of Justice in 1945. The statute stipulates that the "International Court of Justice is established by the United Nations Charter as the principal judicial organ of the United Nations".[145] Only states that are party to the statute can bring disputes to the ICJ, while non-members need a recommendation from the Security Council approved by the General Assembly. It is made up of fifteen judges,

[141] Pellet, Peaceful settlement's "only real obligation is not to resort to armed force to settle disputes", para. 16
[142] Brownlie, Malcolm N. Shaw, *International law* (6th edition 2008) 701.
[143] J Pan, Toward a new framework for peaceful settlement of China's territorial and boundary disputes (2009) 50-51.
[144] R Higgins, Peaceful settlement of disputes, *Soc'y Int'l L*. 89 Proc. Ann. Meeting (1995) 293-296.
[145] Article 1 of the "Statute of the International Court of Justice"..

from different countries selected by the General Assembly and the Security Council from a list provided by national groups. Its jurisdiction spans as follows: (1) The subject matter of the dispute it submits is called contentious jurisdiction, and (2) Jurisdiction providing legal advice/advisory opinion is referred to as noncontentious jurisdiction. One of the example cases brought before the Court was the *North Sea Continental Shelf.*[146]

The ICJ is guided by a special framework called 'the Statute of the Court.' It is an annexure to the UN Charter, so once you become a member of the UN you are automatically a member. It performs a dual role, first as a world court, and second giving advisory opinions on questions of law at the request of the UN.[147] In some situations, disputes are sent to the ICJ, taking into cognisance the necessary declarations under Article 36(2) of the Statute of the Court. It is crucial to note that, even though most of the member countries of the UN have accepted to be bound by the Court's judgment, some countries have been flouting the UN Charter[148] which stipulates as follows: 1. Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party, and 2. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.

Chapter VII of the Charter mandates the Security Council to ensure peace and security. The Charter further stipulates what needs to be done to secure peace, such as respect for fundamental human rights, economic and social development, and the peaceful settlement of disputes. These tasks are ascribed to different organs of the UN, and other functional bodies have been added over time. The ICJ's significance in maintaining peace is not to rival the Security Council, but to adjudicate disputes between member states by the use of legal means.[149] Article 36 (6) of the Charter states that "legal disputes should as a general rule be referred by the parties to the ICJ in accordance with the provisions of the statute of the court". The Court's dockets in the past consisted

[146] ICJ (n 168).
[147] K Askandar and C Sukim, Making peace over a disputed territory in Southeast Asia, *The Journal of Territorial and Maritime Studies* 3, 1 (Published by: McFarland & Company January 2016) 65-85.
[148] Article 94 (n 40).
[149] Higgins (n 167).

of cases concerning Spain and Canada, Qatar and Bahrain, Libya and the United Kingdom, Libya and the United States, Bosnia-Herzegovina and Yugoslavia, Iran and the United States, Hungary and Slovakia, Cameroon and Nigeria, Botswana and Namibia. Others include Paraguay and the United States, the United Nations and Malaysia, Germany and the USA, Indonesia and Malaysia, Guinea and the Congo, Congo v Uganda, Rwanda and Burundi, and Yugoslavia and various NATO states.[150]

Despite the obligations placed on states under Article 59 of the Statutes of the Court, which makes the judgments of the court binding on parties who are locked in disagreements, most member states have failed to comply with the binding judgments of the court. In such situations, the UN Charter mandates the "Security Council" to decide on the appropriate measures to take to give effect to the decision of the court. Regarding this, the International Court of Justice has been positioned in a positive mode in the resolution of intractable disputes.[151] It has been advocated that the most fundamental approach to settling disputes peacefully is by resorting to international law. In the decided case of *German External Debts*,[152] the ICJ intimated that the obligation on parties to find an amicable means towards the peaceful resolution of disputes is not always found in agreements negotiated earlier, but rather, "it does imply that serious efforts to move upwards must be made". Its mandate, "to settle, in accordance with international law, legal disputes submitted to it by states and to give advisory opinions on legal questions referred to it", places it in a crucial position when it comes to dispute settlement.

At a time when the General Assembly requested the ICJ to decide on the conditions an applicant state could be admitted to the UN, the Court outlined the following criteria:[153] The majority of the Court went on to hold that the conditions laid down in Article 4 (1) that, "an applicant must (1) be a state; (2) be peace-loving; (3) accept the obligations of the Charter; (4) be able to carry out these obligations; and (5) be willing to do so" were exhaustive.

[150] Higgins (n 167).
[151] Chetail, 2003
[152] *German External Debts*
[153] DW Greig, The Advisory Jurisdiction of the International Court and the Settlement of Disputes between States *The International and Comparative Law Quarterly* 15, 2 (April 1966).

In the Case Concerning *Military and Paramilitary Activities in and Against Nicaragua,*[154]which clarified the importance of the court in the UN system. The ICJ stated as follows:[155]

> The significance of this function of the Court cannot be over-estimated in this nuclear world in which peace is globally indivisible and the rest of the international community is genuinely concerned about war and conflict in any State. There is little doubt that world public opinion is an important factor which could be brought to bear upon the parties to the dispute.

The significance of the ICJ is linked with the achievements of the UN. It could be stated categorically that international peace and security would have been negated but for the fact that these various UN institutions are there to ensure world peace, else the world would have been chaotic.[156] In a report to the 40th session of the UN, the Secretary-General emphasised that the UN was not established to resolve all the problems of the world. The Secretary-General emphasised the significance of the Court in maintaining international peace and security as he stated that the Court helps ensure the "important principle of equality between states in international relations".[157] As opined by Rovine: ...weaker states derive an obvious advantage from legal settlement in disputes with more powerful opponents.... The strong give up much of their leverage in a contest of legal briefs and argumentation. This is precisely why many leading nations are not particularly anxious to establish a Court regime of peaceful change. The alternative of negotiation, even if within a treaty or general legal framework, provides an easier way to self-assertion.

Research has shown that recognition of the ICJ alone has a pacifying effect on UN member states. Member states that use the court are able to achieve justice better, can avoid military conflicts, and are predisposed to settle their disputes in a "win-win situation".[158] Mitchell and Hensel[159] have intimated that, "ICJ

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[154] *Nicaragua v. United States of America* [1986] I.C.J. Rep.
[155] BS Chimni, The international court and the maintenance of peace and security: The Nicaragua Decision and the United States Response *The International and Comparative Law Quarterly* 35, 4 (Published by Cambridge University Press October 1986) 960-970.
[156] Chimni (n 178).
[157] UNGA Doc.A/40/553 Study on Concepts of Security: Report of the Secretary-General (1985) 36.
[158] Mitchell & Powell, 2011
[159] Mitchell and Hensel.

judgments are substantial". The authors found that twenty-eight out of a total number of twenty-nine ICJ decisions that centered on "territorial, maritime, or river disputes" have been fully complied with by states. In a similar vein, Paulson opined that the majority of ICJ judgments bring finality to ongoing disputes that threaten international peace and security. The UN Secretary-General is on record as saying (1994) that "everyone is now well aware that differences and conflicts between States must be settled by recourse to law. It must, however, be acknowledged that international justice has not yet, far from it, become part of the customs of States." Judge Nagendra Singh, addressing the UN General Assembly, expressed the hope that:

> throughout the world, there might be an awakening of the people, that men might know the principles of law and become aware of the existence of international law, conscious of the fact that respect for judicial process is a cardinal virtue of mankind.

Judge Mohammed Bedjaoui, President of the Court, in his advisory opinion on the *Legality of the Use of Nuclear Weapons*[160] addressed the situation of mankind in the twentieth century in the following terms:

> Though endowed with reason, mankind has never been so unreasonable; its destiny is clouded over; its conscience is obscured; its vision is troubled and its ethical guidelines fall like dead leaves from the tree of life'. The Court, he said, had a part to play, however minimal, in the work of 'salvation for humanity'. It did, in the event, add unanimously a vital extra clause to its judgment. 'There exists an obligation to pursue in good faith and bring to a conclusion, negotiations leading to nuclear disarmament.

Need to state here that no institution in the contemporary world is cloaked with such enormous power to provide such a significant explanation on this crucial issue, other than the World Court. The principles on the prohibition of the use of force were enshrined in the UN Charter right from the beginning to 'have a higher legal standing and character' as compared to other regulations and have settled to become part of customary international law. The UN Charter and international law prohibit the use of force and stipulate the peaceful settlement of disputes as an obligation of the international community. It has been

[160] *Legality on the Use of Nuclear Weapons*.

advocated that dispute settlement with the use of force should be made as a form of a resolution in the UNSC or the right of self-defence.[161] But the caveat here is that this should be done only when there is no avenue for resolving the dispute peacefully.[162]

SIGNIFICANCE OF INTERNATIONAL LAW TO INTERNATIONAL PEACE AND SECURITY

Hamza and Todorovic[163] intimates that international peace and security can be preserved at best under international law, hence the establishment of the League of Nations in 1919 and the United Nations in 1945. The ICJ has heard approximately 180 cases since its 1946 creation,[164] the WTO has heard over 600 disputes and 98 foreign investment cases involving more than 140 states, which have produced more than a thousand arbitral proceedings.[165] But, for the peaceful means adopted by these international institutions in the settlement of these disputes, some of them could have threatened "international peace and security". The most fundamental importance of international law is the promotion of international peace. In the quest to achieve this noble objective, a regime must be in place that ensures the peaceful settlement of international disputes. This is because the 'art' of resolving international disputes in our current world is a "multidimensional and fascinating field".[166]

Significantly, international law has developed to a stage where "it does not exhaust itself in correlative rights and obligations" that exist between states but also gives due recognition to the interests of the international community, inclusive of states and humanity.[167] International law provides crucial guiding principles for peaceful co-existence. Further, it provides the framework for identifying states and organisations, and the 'nationality' of individuals and

[161] Cheol-Young Choi, Legal tasks of the End-of-War declaration and the peace treaty in the Korean Peace Process, *Humanitäres Völkerrecht*: *Journal of International Law of Peace and Armed Conflict* 2, 1/2 (Published by *Berliner Wissenschafts-Verlag* 2019) 89-106.
[162] Ibid.
[163] Hamza and Todorovic, 2017
[164]ICJ, List of All Cases (https://www.icj-cij.org/en/list-of-all-cases).
[165]WTO, Dispute Settlement: The Disputes https://www.wto.org/english/tratop_e/dispu_e/find_dispu_cases_ e.htm.
[166] EJ, "What is the Use of International Law? International Law as a Century Guardian of Welfare", *Michigan Journal of International Law* 28 (2007) 815-817.
[167] B Simma, Universality of International Law from the Perspective of a Practitioner *The European Journal of International Law* 20, 2 (EJIL 2009) 265 – 297.

legal entities within the state.[168] Again, international law helps define the 'political and territorial limits' and the jurisdiction of states, and the immunities to be enjoyed in the jurisdiction they are.[169] International law helps provide the grounds for the civil responsibility of states for breaches of international law, as well as the appropriate means of redressing such challenges as and when they occur.[170] Moreover, international law provides the 'principles and modalities' that govern the peaceful resolution of disputes that arise between States.[171]

Consequently, the existence of a dispute is the foremost condition for the ICJ to exercise its jurisdiction, and it is not sufficient for a party to claim that no dispute exists, since "whether there exists an international dispute is a matter for objective determination" by the Court.[172] Through international law and the peaceful settlement of disputes, many 'maritime delimitation' cases have been resolved in accordance with Annex VII of the United Nations Convention on the Law of the Sea. These include cases such as the Southern Bluefin Tuna case,[173] Barbados and the Republic of Trinidad and Tobago,[174] and the case of Guyana and Suriname.[175] The other category of cases of arbitration involves those that were heard on ad hoc special agreements or compromises. Since 1945, examples of such cases include the Rann of Kutch Case (India and Pakistan),[176] Anglo-French Continental Shelf Case,[177]and the Case concerning the Air Services Agreement of 27 March 1946.[178]

In addition to the above, others that had the potential to threaten "international peace and security" include Guinea-Guinea (Bissau) Maritime Delimitation Case,[179] the Dispute concerning Filleting within the Gulf of St. Lawrence

[168] I Brownlie, The Peaceful Settlement of International Disputes, The Wang Tieya Lecture in Public International Law (Published by Oxford University Press 3 July 2009).
[169] Ibid.
[170] Ibid.
[171] Ibid.
[172]*Interpretation of Peace Treaties with Bulgaria, Hungary and Romania* (First Phase), Advisory Opinion, I.C.J. Reports 1950, p. 74).
[173] *Australia* and *New Zealand v. Japan*) Award dated (August 4 2000) 119 ILR, 508.
[174] Permanent Court of Arbitration (Award dated 11 April 2006) www.pca-cpa.org/showpage.asp?pag_id=1029) Past Cases.
[175] Award dated (17 September 2007) 47 ILM 164.
[176] Award dated (19 February1968) 50 ILR 2.
[177] Award dated (30 June 1977) 54 ILR 5) (3).
[178] *United States* v *France* Award dated (9 December 1978) 54 ILR 303.
[179] Award dated (14 February1985) 77 ILR 635.

(Canada/France)[180], the Taba Case (Boundary Pillars between Egypt and Israel)[181], Rainbow Warrior Case (New Zealand v. France),[182] St. Pierre et Miquelon (Maritime Delimitation between Canada and France),[183] Determination of Maritime Boundary (Guinea-Bissau v. Senegal) were all resolved peacefully.*[184]* After the award, Guinea-Bissau tried to resort to the ICJ to get a "declaration of nullity" in the award, but was not successful.[185] Further, other cases worthy of mention here also include Heathrow Airport User Charges (United States–United Kingdom),[186] and, lastly, the Red Sea Islands Case (Eritrea and Yemen).[187]

Between 1946 and 1984, the ICJ dealt with 110 cases and gave 24 advisory opinions upon requests by members or the UN itself.[188] In the evaluation of the Court in general, Ian Brownie has argued that "the prognosis is good". Anglo-Norwegian Fisheries,[189] Gulf of Maine case, [190]Chad v. Libya.[191] Denmark v. Norway,[192] Cameroon v. Nigeria[193] were all settled through peaceful means. Brownie has posited that the system of peaceful resolution of disputes between states is an important aspect of "the universe of international relations."[194] As the Covenant of the League of Nations and the Kellogg–Briand Pact were unable to prevent the Second World War, it was an aim of those drafting the Charter of the United Nations to remedy the shortcomings of both instruments.[195] Article 2(4) has been referred to as "the cornerstone of peace in

[180] Award dated (17 July 1986) 82 ILR 591.
[181] Award dated (29 September 1988) 80 ILR 224.
[182] Award dated (30 April 1990) 82 ILR 499 (Issues of State responsibility in re ruling of Secretary-General).
[183]Award dated (10 June 1992) 95 ILR 645.
[184]Award dated (July 1989) 83 ILR 1.
[185] ICJ Reports (31 July1991) 53.
[186] Award dated (30 November 1992) Suppl. Decision (November 1 1993) 102 ILR 215.
[187] Award dated (9 October 1998) 114 ILR 1(Phase One) Award dated (December 17) 1 119 ILR 417 (Phase Two).
[188] Ian Brownie (n 197).
[189] ICJ Reports (1951) 116.
[190] ICJ Reports (1984) 246.
[191] ICJ Reports (1994) 6.
[192] ICJ Reports (1993) 38.
[193] ICJ Reports (2002) 303.
[194] Z Trávníčková, The International Law Commission and the International Law Codification Market Seventy Years of the International Law Commission Book, Drawing a balance for the future (The United Nations Published by Brill 2021).
[195] Y Dinstein, War, aggression and self-defence (3rd edn. Cambridge Cambridge University Press 2001) 116.

the Charter", "the heart of the United Nations Charter" or the "basic rule of contemporary public international law".[196] Randelzhofer[197] has specified that States which are not members of the United Nations "are protected, though not bound" by Article 2(4).

The 1970 Friendly Relations Declaration explained the prohibition of the use of force in the following terms: Every State must refrain from organizing or encouraging the organization of irregular forces or armed bands, including mercenaries, for incursion into the territory of another State. Every State has to refrain from organizing, instigating, assisting, or participating in acts of civil strife or terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts when the acts referred to in the present paragraph involve a threat or use of force.

These provisions, captured in the Friendly Relations Declaration, were recognised by the ICJ when it referred to them in its *Nicaragua* Judgment of 27 June 1986, in explaining the prohibition of the use of force in customary international law. These have also been confirmed in explicit terms by the "United Nations Security Council in Resolution 672 (1990)" and by the ICJ in the 2004 *Wall Advisory Opinion*. Professor Antonio Cassese[198] explained these opinions of these important institutions of the UN as follows:

> At present general international law has departed markedly from the principle of effectiveness: *de facto* situations brought about by force of arms are no longer automatically endorsed and sanctioned by international legal standards. At present the principle of legality is overriding – at least at the normative level – and effectiveness must yield to it.

One of the significant roles of international law is to ensure the maintenance of stability in international relations that underpin efficient governance of actions by aggressive states in their relations with others. The first of these crucial

[196]P Malanczuk, *Akehurst's Modern Introduction to International Law* (7th London and New York Routledge 1997) 309.
[197] A Randelzhofer, "Article 2(4)", in Simma B. (ed.), *The Charter of the United Nations: A Commentary* (Oxford Oxford University Press 1994) 115.
[198]A Cassese, "Considerations on the international status of Jerusalem", 3 *Palestinian Yearbook of International Law* 22 (1986).

norms is the principle of peaceful settlement of disputes.[199] International disputes are bound to occur in international interactions. But, when they do occur, it is incumbent on parties to resort to the UN Charter to settle such disputes in a peaceful manner.[200] Since the establishment of the UN, the international community has made important efforts to prohibit the use of force in the settlement of disputes by promoting a peaceful approach.[201] "Peaceful non-settlement" is an approach where the parties to the dispute agree to put their claims on freeze while sticking to their legal claims. It is a crucial supplement to the principle of peaceful settlement of disputes and plays a significant role in the resolution of longstanding disputes.[202] History has shown that the international community regards international law as a means to ensure the establishment and preservation of world peace and security. The maintenance of international peace and security has always been the major purpose of international law.

The direct cause of war and violence always emanates from a dispute between states, and it is in the interest of peace and security that disputes should be brought to a peaceful end. Methods and procedures for the peaceful settlement of disputes have been made available under international law.[203] It is through international law that important information about peaceful approaches to territorial disputes is established.[204] Alain Pellet has described the law of peaceful settlement in contemporary times as "weak and imperfect".[205] Some scholars are also of the view that the obligation of peaceful settlement of international disputes is not feasible.[206] But, in all, it is pivotal to resort to

[199] A Hsiu–An Hsiao, Unilateral actions and the rule of law in maritime boundary disputes *Asian Yearbook of International Law Book* 22 Seokwoo L, Hee L, Lowell Bautista and Keyuan Z (Published by Brill 2016).
[200] J Crawford, The current political discourse concerning international law *The Modern Law Review* 81, 1 (January 2018).
[201]UN (n 40).
[202] H Yao, Non-settlement as part of efforts to build a community with a shared future for mankind *Social Sciences in China* 42, 4 (2021) 38-54.
[203] A M Hamza and M Todorovic, Peaceful settlement of disputes, *Global Journal of Commerce and Management Perspective* (Published by Global Institute for Research & Education 2017).
[204]B Hollis and E Tikk, Peaceful settlement in International Law.
[205] A Pellet, Peaceful settlement of international disputes, in Max Planck Encyclopedia of Public International Law R. Wolfram (ed.) (2013) para. 12.
[206] C Tomuschat and M Kohen, Flexibility in international dispute settlement (2020).

international dispute settlement mechanisms in order not to threaten global security.

International law provides a common set of standards that help in the evaluation of claims by opposing parties.[207] This is key when it comes to the resolution, settlement awards, and the final coordination of the challenges that centre on territorial disputes, and this makes it very clear in the identification of the several pathways to settle the 'disputed territory' between the parties by experts.[208]

CONCLUSION AND RECOMMENDATIONS

This paper examined the role of international law in the peaceful settlement of disputes. It is argued that international law and its enforcement agencies provide an effective framework for peaceful dispute resolution between nations, fostering global security and cooperation. Using the desktop approach, various international treaties and institutions are examined in the context of their implications for dispute settlement. It is deduced that the settlement of international disputes is crucial for maintaining global peace and security. The UN Charter emphasizes resolving disputes peacefully, through negotiation, mediation, conciliation, arbitration, and judicial settlement. It obliges member states to prioritize peaceful means, respecting sovereignty, non-interference, and self-determination. Various declarations, including the Manila Declaration and the Declaration of the Right to Peace, reinforce these principles. International law encourages cooperation, equal rights, and socioeconomic development, with institutions like the International Court of Justice and organizations promoting peaceful dispute resolution. Effective implementation relies on states' adherence to these principles, ensuring global stability and security.

The United Nations plays a crucial role in settling international disputes, with its Charter emphasizing peaceful resolution through negotiation, mediation, conciliation, arbitration, and judicial settlement. Two schools of thought assess the UN's contribution: institutionalists, who see the potential for success if members utilize dispute resolution mechanisms, and skeptics, who view the organization as ineffective. Despite differing views, the UN has achieved

[207] P K Huth, Bringing law to the table: Legal claims, focal points, and the settlement of territorial disputes since 1945 (University of Maryland 2000).
[208] Ibid.

notable diplomatic successes, resolving disputes in Kashmir, Cyprus, and the Golan Heights. Chapter VI of the UN Charter mandates peaceful dispute resolution, with Article 33 outlining peaceful settlement methods. The Security Council recommends procedures and terms for dispute settlement, as seen in cases like the Corfu Channel dispute and the Kashmir conflict. The Organisation of African Unity Charter and the UN Convention on the Law of the Sea also promote peaceful dispute resolution. While challenges persist, the UN's commitment to peaceful settlement underscores its significance in maintaining international peace and security.

The International Court of Justice plays a vital role in maintaining global peace and security by resolving disputes between states through legal means, providing advisory opinions, and promoting the peaceful settlement of disputes, as mandated by the UN Charter and its Statute, thereby ensuring respect for international law, equality among nations, and protection of human rights.

From the discussions and analysis done supra, it is recommended that major international documents should be put together in the form of a "code" to be used to settle disputes. International law, when embraced by mankind for the settlement of disputes, will serve as a focal point, especially when the legal principles crucial for the settlement of the dispute are explicit and established.

It is imperative that the principle of the obligation on members of the UN to settle disputes in a peaceful manner is implemented, making use of international institutions established for that purpose as a way of "institutionalising international norms". It is now established that states can be held accountable for 'any negative impact of their wrongful acts', but the determination of the wrongful act, together with its implementation, is significant for the success and effectiveness of an efficient legal system.[209] It is imperative that two key institutions within the UN are looked at again, especially when it comes to the peaceful settlement of disputes. These are the "General Assembly" and the "Security Council". It is prudent that responsibility for world peace and security is assigned to the "General Assembly", the Parliament of the UN, since ideological differences between

[209] The Place of the WTO and its law in the international legal order *The European Journal of International Law* 17, 5 (EJIL 2007).

DOI: 10.47963/ucclj.v4i1.1547

the "veto" wielding powers are serving as a barrier in the attainment of world peace by the "Security Council". The other recommendation is also that, when the UN was established after the Second World War, the population of the world was about half the current population. The "veto" power has to be looked at, and the membership of the "Security Council" expanded to reflect geographical dynamics.

Brierly has suggested a wide array of approaches for the peaceful settlement of disputes. He states as follows:

> It is simply the truth—or truism—that the causes of any war are extremely complicated, because the acts and events which have contributed in some measure to the final issue are so numerous, and many of them are so difficult to recover from the obscurity of the past, that the assignment of ultimate responsibility becomes a task of the utmost difficulty… We must aim at creating an international order in which the temptation to resort to war as an instrument of national policy will be less than it has hitherto been, and this involves an increasing watch over those matters on which the national policies of different states are likely to conflict, a study of all possible expedients for reconciling conflicting policies, and the acceptance internationally of arrangements of some sort which will make it easy and natural for states to resort to whatever means of reconciliation seem likely to be most appropriate to any particular case as it arises.

This last statement from Brierly summarises the whole essence of having a supra national body that will serve as an international executive to ensure the peaceful resolution of disputes among the states of the world, so as not to have wars that have the potential to threaten international peace and security, like the one currently ongoing between two members of the UN, Russia, and Ukraine.

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