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DUTY OF MEMBER STATES OF UNITED NATIONS ORGANIZATION TO PROSECUTE INTERNATIONAL CRIMES; A CRITICAL ANALYSIS

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Abstract

The United Nations Organization is a very delicate organization. It has no standby army yet it is charged with the huge responsibility of prosecuting International Crimes. It is evident that it cannot succeed in this noble assignment without the cooperation of its member states. The aim of this paper is to portray how the Member States of United Nations Organization aids the United Nations Organization in ensuring a world devoid of international crimes. The researcher discovered that most of the member states are loyal to this mission of the United Nations Organization. The loyalty of the member States could be seen in their cooperation with the International Criminal Court whose ultimate mandate is to prosecute Genocide, War Crimes, Crimes against Humanity and aggression. These are major International Crimes that are threatening the Peace and Prosperity of the world. The duty of these member states will be explained below and recommendations for efficient discharge of duty of the member states of United Nations Organization will be given by the researcher.

Keywords: *International Crimes, United Nations, International Organizations, and global peace.*

1.0. INTRODUCTION

The world is no longer a global village. It is now a global house. We are very close to each other and such closeness brings promises of Prosperity and threat of war at the same time. The United Nations Organization is an international intergovernmental organization that is created to ensure global peace and prosperity. Part of its duty is to protect the global community and eliminate international crimes like war crimes, crimes against humanity, genocide and aggression.

DEFINITION OF KEY WORDS

DEFINITION OF MEMBER STATES OF UNITED NATIONS ORGANIZATION

The United Nations member states are the 193 sovereign states that are members of the United Nations (UN) and have equal representation in the UN General Assembly.¹ The UN is the world's largest international organization with intergovernmental powers .

The criteria for admission of new members to the UN are set out in Chapter II , Article 4 of the UN Charter:²

1. Membership in the United Nations is open to all peace-loving states which accept the obligations contained in the present Charter and, in the judgement of the Organization, are able and willing to carry out these obligations.
2. The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council.

INTERNATIONAL CRIMES DEFINITION

Crimes which affect the peace or safety of more than one state or which are so reprehensible in nature as to justify the intervention of international agencies in the investigation and prosecution thereof.

Traditional examples include war crimes, crimes against humanity and piracy. More recently: genocide and terrorism and in the near future.

Some have emerged as articulated and defined offences, part of the law of nations and others now form part of the body of international law statutes - more properly called treaties. As part of the latter, they are properly organized with a definition of the prohibited conduct and appropriate referrals to international courts for trial and sentence.³

2.0. ORIGIN OF UNITED NATIONS

The United Nations is an international organization founded in 1945 after the Second World War by 51 countries committed to maintaining international peace and security, developing friendly relations among nations and promoting social progress, better living standards and human rights.

¹ https://en.m.wikipedia.org/wiki/Member_states_of_the_United_Nations

² Chapter II , Article 4 of the UN Charter :

³ Duhaime, Lloyd, Duhaime's Legal Dictionary

Due to its unique international character, and the powers vested in its founding Charter, the Organization can take action on a wide range of issues, and provide a forum for its 193 Member States to express their views, through the General Assembly, the Security Council, the Economic and Social Council and other bodies and committees.

The work of the United Nations reaches every corner of the globe. Although best known for peacekeeping, peace building, conflict prevention and humanitarian assistance, there are many other ways the United Nations and its System (specialized agencies, funds and programmes) affect our lives and make the world a better place. The Organization works on a broad range of fundamental issues, from sustainable development, environment and refugees protection, disaster relief, counter terrorism, disarmament and non-proliferation, to promoting democracy, human rights, gender equality and the advancement of women, governance, economic and social development and international health, clearing landmines, expanding food production, and more, in order to achieve its goals and coordinate efforts for a safer world for this and future generations.

The UN has 4 main Purposes;

- a) To keep peace throughout the world;
- b) To develop friendly relations among nations;
- c) To help nations work together to improve the lives of poor people, to conquer hunger, disease and illiteracy, and to encourage respect for each other's rights and freedoms;
- d) To be a centre for harmonizing the actions of nations to achieve these goals.⁴

2.1. DUTY TO PROTECT THE WORLD AGAINST WAR CRIMES, GENOCIDES, WAR AGAINST HUMANITY& AGGRESSION

The responsibility to protect embodies a political commitment to end the worst forms of violence and persecution. It seeks to narrow the gap between Member States pre-existing obligations under international humanitarian and human rights law and the reality faced by populations at risk of genocide, war crimes, ethnic cleansing and crimes against humanity.

Background

Following the atrocities committed in the 1990s in the Balkans and Rwanda, which the international community failed to prevent, and the NATO military intervention in Kosovo, which was criticized by many as a violation of the prohibition of the use of force, the international community engaged in a serious debate on how to react to gross and systematic violations of human rights. In September 1999, while presenting his annual report to the UN General Assembly, Kofi Annan reflected upon the prospects for human security and intervention in the next century and challenged the Member States to find common ground in upholding the principles of the Charter, and acting in defence of common humanity. He repeated the challenge in his 2000 Millennium Report, saying that: if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica, to gross and systematic violation of human rights that offend every precept of our common humanity?

⁴ <https://www.un.org/un70/en/content/history/index.html>

The challenge was taken by the International Commission on Intervention and State Sovereignty (ICISS), set up by the Canadian Government, which at the end of 2001 issued a report entitled *The Responsibility to Protect*. The concept of the responsibility to protect drew inspiration of Francis Deng's idea of State sovereignty as a responsibility and affirmed the notion that sovereignty is not just protection from outside interference rather is a matter of states having positive responsibilities for their population's welfare, and to assist each other. Consequently, the primary responsibility for the protection of its people rested first and foremost with the State itself. However, a residual responsibility also lied with the broader community of states, which was activated when a particular state is clearly either unwilling or unable to fulfill its responsibility to protect or is itself the actual perpetrator of crimes or atrocities.

The subsequent report of the High Level Panel on Threats, Challenges and Change, entitled *A more secure world: our shared responsibility* (A/59/565) and the Secretary-General's 2005 report *In Larger Freedom: towards development, security and human rights for all* (A/59/2005) endorsed the principle that State sovereignty carried with it the obligation of the State to protect its own people, and that if the State was unwilling or unable to do so, the responsibility shifted to the international community to use diplomatic, humanitarian and other means to protect them. Neither report asserted a basis to use force for this purpose other than Security Council authorisation under Chapter VII of the Charter as a last resort, in the event of genocide and other serious international crimes.

At the 2005 high-level UN World Summit meeting, Member States finally committed to the principle of the responsibility to protect by including it into the outcome document of that meeting (A/RES/60/1). Though the concept adopted omitted some of the aspects proposed initially by the ICISS, it retains its fundamental aspects in relation to prevention of and response to the most serious violations of international human rights and humanitarian law.

Adoption of the Principle

In paragraphs 138 and 139 of the 2005 World Summit Outcome Document (A/RES/60/1) Heads of State and Government⁵ affirmed their responsibility to protect their own populations from genocide, war crimes, ethnic cleansing and crimes against humanity and accepted a collective responsibility to encourage and help each other uphold this commitment. They also declared their preparedness to take timely and decisive action, in accordance with the United Nations Charter and in cooperation with relevant regional organizations, when national authorities manifestly fail to protect their populations.

Paragraphs on the Responsibility to Protect

Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that

⁵ Paragraphs 138 and 139 of the 2005 World Summit Outcome Document (A/RES/60/1)⁵ Heads of State and Government

responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability.

The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities manifestly fail to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out.

3.1. THE DUTY TO AID ARREST

Member States of United Nations Organization have a responsibility that they must discharge if International Crimes will be curbed. They have the duty of cooperation with the International Criminal Court as regards to the arrest of those who are accused of committing genocide, war crimes, crimes against humanity and aggression.

After the initiation of an investigation by the International Criminal Court, only a Pre-Trial Chambers at the request of the Prosecution, issue a warrant of arrest or summons to appear if there are reasonable grounds to believe that the person concerned has committed a crime within the ICC's jurisdiction.

When the Prosecution requests the issuance of a warrant of arrest or summons to appear, it must provide the judges with the following information:

- i. the name of the person;
- ii. a description of the crimes the person is believed to have committed;
- iii. a concise summary of the facts (the acts alleged to be crimes);
- iv. a summary of the evidence against the person;
- v. the reasons why the Prosecution believes that it is necessary to arrest the person.

The judges will issue a warrant of arrest if it appears necessary to ensure that the person will actually appear at trial, that he or she will not obstruct or endanger the investigation or the Court's proceedings, or to prevent the person from continuing to commit crimes.

The Registrar transmits requests for cooperation seeking the arrest and surrender of the suspect to the relevant State or to other States, depending on the decision of the judges in each case. Once

the person is arrested and the Court is so informed, the Court ensures that the person receives a copy of the warrant of arrest in a language which he or she fully understands and speaks.

The Court does not have its own police force. Accordingly, it relies on State co-operation, which is essential to the arrest and surrender of suspects. According to the Rome Statute, States parties shall cooperate fully with the Court in its investigation and prosecution of crimes within the jurisdiction of the Court.

EXECUTION OF THE WARRANT OF ARREST

The responsibility to enforce warrants of arrest in all cases remains with States. In establishing the ICC, the States set up a system based on two pillars. The Court itself is the judicial pillar. The operational pillar belongs to States, including the enforcement of Court's orders.

States Parties to the Rome Statute have a legal obligation to cooperate fully with the ICC. When a State Party fails to comply with a request to cooperate, the Court may make a finding to that effect and refer the matter for further action to the Assembly of States Parties.

When the Court's jurisdiction is triggered by the Security Council, the duty to cooperate extends to all UN Member States, regardless of whether or not they are a Party to the Statute. The crimes within the jurisdiction of the Court are the gravest crimes known to humanity and as provided for by article 29 of the Statute they shall not be subject to any statute of limitations. Warrants of arrest are lifetime orders and therefore individuals still at large will sooner or later face the Court.

An arrested person is brought promptly before the competent judicial authority in the custodial State, which determines whether the warrant is indeed for the arrested person, whether the person was arrested consistently with due process and whether the person's rights have been respected. Once an order for surrender is issued, the person is delivered to the Court, and held at the Detention Centre in The Hague, The Netherlands.⁶

4.0. DUTY TO PROVIDE FINANCIAL ASSISTANCE TO UNO

United Nations Organization is not a business or a state agency that is assured of constant funding from its business proceeds or government revenues. It is an international organization that has intergovernmental and interstate functions therefore it depends on the funding of member states to carry its duties effectively. If it is continuously expected to promote peace and prevent the commission of Genocide, War Crimes, Crimes Against Humanity and Aggression that it must be continuously funded by member States.⁷

⁶ Understanding The International Criminal Court, Public Information and Documentation Section Registry, International Criminal Court Maanweg174 2516AB, The Hague, The Netherlands Page 24-26.

⁷ Emone Emmanuel, Chidi, Obligation of Member States of United Nations Organization.

Contributions received for 2019 for the United Nations Regular Budget

As of 18 July 2019, 109 Member States have paid their regular budget assessments in full.

1. The following 34 Member States have paid their regular budget assessments in full within the 30 day due period specified in Financial Regulation 3.5 (by 31 January 2019).

Member State Net assessment (in US\$) Date of Payment

1. Dominican Republic 1,477,759 1-Jan-19
2. Estonia 1,087,407 1-Jan-19
3. Malawi 55,765 1-Jan-19
4. Australia 61,619,804 11-Jan-19
5. Canada 76,230,111 11-Jan-19
6. Latvia 1,310,466 11-Jan-19
7. Liechtenstein 250,941 14-Jan-19
8. Rwanda 83,647 14-Jan-19
9. Singapore 13,522,898 14-Jan-19
10. Bhutan 27,883 15-Jan-19
11. Finland 11,738,432 15-Jan-19
12. Ireland 10,344,319 17-Jan-19
13. Kenya 669,174 17-Jan-19
14. Poland 22,361,577 17-Jan-19
15. Solomon Islands 27,883 17-Jan-19
16. Armenia 195,176 18-Jan-19
17. Luxembourg 1,868,112 18-Jan-19
18. Switzerland 32,092,485 18-Jan-19
19. Hungary 5,743,746 22-Jan-19
20. Sweden 25,261,332 22-Jan-19
21. Bulgaria 1,282,584 25-Jan-19
22. Denmark 15,446,774 25-Jan-19
23. Netherlands 37,808,350 25-Jan-19
24. Tuvalu 27,883 25-Jan-19
25. Ukraine 1,589,288 25-Jan-19
26. Bahrain 1,394,113 28-Jan-19
27. Cuba 2,230,581 29-Jan-19
28. Malaysia 9,507,852 29-Jan-19
29. Azerbaijan 1,366,230 30-Jan-19
30. India 23,253,808 30-Jan-19
31. New Zealand 8,113,739 30-Jan-19
32. Thailand 8,559,855 30-Jan-19
33. Cyprus 1,003,761 31-Jan-19

34. Norway 21,023,227 31-Jan-19-⁸

This fact shows that most member states are cooperating with United Nations Organization to ensure that this sacred obligation of ensuring global peace and protection of humanity from abuse of power is kept. The payment of these dues helps in prosecuting International Crimes. It is from these funds that staffs and personnel of the United Nations Organization are paid. Thus these financial supports of the member states of United Nations Organization in ensuring peace and prosperity across the world.

5.0. RECOMMENDATIONS

Member States of United Nations Organization have made tremendous efforts in discharging their duties to the United Nations especially duty to prosecute international crimes. However I believe that there is room for improvement. In the course of this research I made some recommendations that will aid the member states to discharge their duties to the United Nations efficiently.

The recommendations are as follows;

1. Member States of United Nations Organization should ensure that every citizen in high school and university should be taught International Law and the roles of International Organizations like United Nations Organization in ensuring the promotion of global peace and prosperity.
2. Model United Nations Organization should be introduced in tertiary institutions so that students will learn practically the duty of member States to United Nations Organization through such mock exercises.
3. States should regularly explain to their citizens how they have discharged their duties to United Nations Organization.
4. United Nations Organization should ensure that it discover the strengths of each state so that duties can be assigned to such state according to their strengths.
5. United Nations Organization must discover new efficient ways of rewarding loyal member states and how to punish disloyal member states.

6.0. CONCLUSION

We have looked at the duty of United Nations Organization and her member states as regards to the prosecution of International Crimes. Most of the member States of United Nations Organization have shown solidarity to the United Nations Organization in the discharge of this noble task. The researcher has also made some recommendations that will promote the efficiency of member States with regards to the duty that they owe United Nations Organization.

⁸ <https://www.un.org/en/ga/contributions/honourroll.shtml>