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International Law, State Sovereignty and Responsibility: A Non-Western Perspective

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Abstract

The inception of the Westphalian state system introduced a legal framework on an international basis, but the intrinsic superiority given to developed western countries seems to be continuously contested by emerging nations fueled with the advent of multipolarity. The current balance of sovereignty and responsibility poses a complicated scenario in which developed countries are supposed to bear a burden for the sake of civilization as a whole, but developing countries appear to find this situation discriminatory. The Mekong River Basin project and the Amazon Rainforest quandary bring us to the intricate and deeply complicated area of state accountability that stems from state sovereignty in International Relations. Just as state responsibility cannot be bound by its territorial boundaries, the timeframe of any event should not bind any state to take positive initiative for any event of great contemporary significance. Just like the example of Affirmative action in Municipal law of many countries.

Keywords: *State, Sovereignty, Responsibility, International Law, Westphalia.*

1.0 Introduction

International law, also referred to as international public law or the law of nations, is the collection of legislation, rules and principles applicable between sovereign states and other organizations lawfully recognized as international actors. The English philosopher Jeremy Bentham (1748–1832) coined the term. Today, with the increase in the power of non-state actors, it is felt that the role of the state in the international arena is not the same as it used to be. However influential non-state actors may have become, they lack what modern states achieved with the 1648 Treaty of Westphalia, i.e. Autonomy, Territoriality and Sovereignty, which guarantees their ultimate authority over a fixed territory and individual citizens within its boundaries. 'Law neither makes the sovereign nor limits his authority; it is might that makes the sovereign and law is merely what he commands.' (Hobbs T., 1651). International law and the decree of Hobbes on law are closely connected; the supreme power in the formulation of international law is the sovereign will of the state. Essentially, governing the actions of states is the function of international law. While significant research exists on the origins of international law and the influences shaping what international law represents, it would be argued that the state is undoubtedly granted superiority. It is also ironic that public international law, which

warrants participation from sovereign states is influenced by their own national interests, which they follow with the highest severity and emphasis. The lack of any central authority to efficiently implement decisions makes public international law voluntary in practice as well as in nature, meaning states promoting their national interests are far more prominent than any jurist would like to see. The concept of the nation-state and its sovereign of societal entities into one territorially defined country is a solely Western construct (Holsti, 1996). Thus, the degree to which the sovereign will of Western states is expressed by International law is profound. The representation of the will of non-Western nations, however, falls short. This section is critical enough to emphasize as any sort of cleavage that divides states by any basis would inevitably impact the efficiency of public international law to tackle issues that owe their solution to joint actions or problems that can cause an existential catastrophe for humankind as a whole. Therefore the solution to these issues must be discovered through peaceful methods and cooperative action as the need to avoid another global war cannot be stressed enough.

This paper will concentrate on recognizing the dynamic balancing of state authority that is bound by borders and accountability that can result from sovereignty, but is not bound by boundaries, as is evident in the case of the Mekong River Dam project. Sovereignty and accountability form an intricate, dynamic relationship with international law that faces the advent of fresh strains, causing new implementation and compliance issues. By contrasting the deficiency of the structure and composition of International law with that of the state judiciary, it becomes apparent that the state is the predominant operational body within the context of efficient judicial structures. Nonetheless, International law emulates the bureaucratic structure of the state in different respects. The configuration of the United Nations Security Council (UNSC) is an example of this. The overriding P-5[1] veto is the ultimate consideration in the passage of resolutions; thus, anyone without a veto would be superseded by any diplomatic interests of the 5 nuclear powers (Carswell, 2013). China is a non-Western emerging superpower that is presently at the forefront of a variety of controversies, including the Mekong River Dam Initiative- which threatens to interrupt the lives of millions residing in its neighbouring countries-, the South

[1] The P-5 refers to the 5 nuclear-powers that permanently sit on the Security Council and maintain the usage of a veto.

China Sea, the Xinjiang re-education camp for Uyghur Muslims- which warrants our attention because the U.S. no longer has the role of the undisputed hegemon in a unipolar world-, therefore many of these land and sea conflicts are seen by some political scientists as a medium to avenge a hundred years of embarrassment and replace the U.S.A. to help accommodate China in its destined position, i.e. the hegemon of the new world order by 2049 (Pillsbury, 2015). We shall attempt to address the above-mentioned questions of hegemony and accountability in relation to public International law through the "Mekong River Basin Project".

The second country we would use in this socio-legal study will be a country in South America that houses the largest rainforest in the world, i.e. Amazon Rainforest. It would represent the dilemma of a developing nation that has been forced to inherit the expense of the industrial revolution through their expectation to protect the Amazon Rainforest, which is a matter of state sovereignty according to its President Joe Bolsonaro and should not be interfered in by other parties. This dilemma loses its strength if it is analyzed just from the point of view of the law, which gives priority to fact overvalue since this particular case is a reflection of the irony of the modern international structure, split into multiple stages, such that without the values it represents, it can not be studied as described by Antonio Gramsci as "Hegemony" relating to the use of soft force, i.e. using Ideology, values to shape beliefs rather than to coerce preferences. Therefore we have to take into account the aspirations and values of these countries in question to properly understand their position and then examine the situation to find a response that does not dispute the presence of the same for others in one way or another despite being value-laden oneself.

2.0 Modern State System & Sovereignty- Origin And Development

The modern-day concept of State is crucial to understand as while some form of government structure, such as Greek city-states and the Roman empire, had existed since ancient times, the notion of the state as such is comparatively recent. State according to Fredrick M. Watkins (1968) refers to as: A geographically delimited segment of human society united by common obedience to a single sovereign.

Two key principles, namely sovereignty and a fixed geographical area, are presented to us by the aforementioned description of the state. We may argue that sovereignty is a result of territoriality that undoubtedly was not present in previous iterations of political associations governed by power/authority centres that were largely hierarchical and overlapping in nature. In the medieval era, Princes, Kings and Emperors recognized a greater authority than themselves i.e. in the form of God, the 'king of kings and the papacy (Heywood, 2004). In addition, authority was divided, especially between the origins of spiritual and temporal influence. The territorial state structure was not, as can be observed, adopted at the time of the medieval period. So devastated by 30 years war, a desire for the creation of norms and rules for peaceful affairs emerged at the beginning of the seventeenth century among nations which subsequently led to the ultimate divorce between states and transnational spiritual institutions such as the Catholic Church and The Holy Roman Empire which led to the creation of consolidated monarchies. According to Richard C Pugh. ‘By the beginning of the seventeenth century, the growing complexity of international customs and treaties had given rise to a need for compilation and systemization. At the same time the growing disorders and suffering of war. especially of the thirty-year war, which laid waste. hundreds of towns and villages. and inflicted great suffering and privation of peasants and city dwellers urgently called for some further rules governing the conduct of war.

The Hobbesian Chaos, settling anarchy and degradation have called for such laws for order and stability. There was a need for an alternative design to the hierarchical feudal structure and other horrors which led to the formation of an anti-hegimonial coalition and setting up the balance of power (Hassan, 2006). The Westphalia settlement, in this respect, was a remarkable and substantial development. It recognized and acknowledged the equal sovereignty of all princes and states thus making it a fundamental charter. Due to the ‘Treaty of Westphalia, 1648’ temporal influence had been stripped away from the church and it emphasized equality and separation of states rather than unified Christendom. The concept of a federal state was linked to the mutual stability of nations and the creation of a rule of law for the equal protection of sovereign states from the indiscriminate use of force by higher or stronger forces. As a fundamental and comprehensive charter, it envisaged numerous rules, norms, principles of the

modern society of states which were articulated in international settlements and in the permanent congress of the League of Nations and the United Nation. Article (2) of the Charter of the United Nations has embedded two prevailing conceptions of the Treaty of Westphalia. From the viewpoint of their relationship, Article 2(1) and Article 2(7) are relevant.

In the Charter, Article 2(1) states: The organization is based on the principle of sovereign equality of all its member states. Article 2(7) states as follows: Nothing specified in this Charter shall allow the United Nations to participate in matters which are, in effect, within the domestic jurisdiction of any State or which enable representatives to refer such matters for resolution in compliance with this Charter (*Statute of the International Court of Justice*, 1945). Thus, after the separation from the divine control of the church that guided and developed norms of conduct for rulers through the force of their spiritual authority, a need for new norms/rules was felt to replace the old framework and govern the relationships between rulers of sovereign states now territorially defined that led to the advent of International Law. So we can assume that the emergence of international law coincides with the growth of geographically established sovereign states that emerged from the ashes of the ancient Holy Roman Empire system after the treaty of Westphalia in 1648 (Kennedy, 1988). The talks, known as the Westphalian Congress, began in 1642 and continued for another four years until the conclusion of the Thirty Years' War in 1648 (Nathan, 2002). Diplomatic delegates of 96 separate entities involved in the talks, which took place in two cities within 30 miles of each other, Osnabriick and Munster (Nathan, 2002). The conflict-related Catholic estates, including Spain, France, the Dutch, the Holy Roman Empire, and a papal mediator assembled in Munster, while the Protestant estates met at Osnabruck under Sweden's leadership and an imperial delegate (Bobbit P, 2003). Due to the fact that no such conference had been held before the 17th century so at this extraordinary point, the delegates themselves were worried about the undue influence on their power's future and even engaging in this mammoth made them uneasy as they stumbled on the contradictory precedent claims in these peace talks (Nathan, 2002). If we attempt to consider the historical evolution of any occurrence or entity in the vacuum of any nature then it influences the significance of the same in the long term.

The Domino Effect is unfolded by historical events that impact events well beyond the original event. We can explain it from the emergence of the Renaissance in Europe between 14th and 17th centuries after the fall of Constantinople, which simultaneously ended the rule of the Byzantine Empire along with the rise of the Ottoman Empire. Philosophy, literature and the arts in Europe were inspired by the rediscovery of ancient wisdom, but the essential truth is the importance of events that were set in motion by any singular occurrence over time. The exploration of the sea route, the fall of the feudal system and the emergence of Europe's new wealthiest elite, the industrial revolution and the interest in discovering new markets that inevitably lead to colonization are both intertwined and owe each other their existence. The same thing happened when the idea of the nation-state and international law full of norms/values that owes its origin to western nations thus automatically represents their interest better and when normalized because of their humongous influence will certainly cause a sense of unfairness among the nations that they are put at some disadvantage by the same. we may conclude that in the current scenario, the desired conformity with international law and international institutions that are voluntary in nature will face opposition as non-Western or formerly colonized nations that make up the majority advance at a fast speed and surpass Western nations in terms of economic and technical development, then the call for full reform will be more frequent than earlier.

3.0 Development Of Relationship Between International Law & Municipal Law Along With State Responsibility

Piracy, international-level authority over the conflict of freedom of expression, cooperation with respect to criminal proceedings and the delimitation of adjacent states' maritime borders all represent matters that come perfectly within the sphere of international law (Taulbee & Glahn, 2017). A basic assertion is enough to recognize that, amid the scepticism of many jurists/theorists, international law is an important force regulating the day-to-day relations between autonomous sovereign international actors. There has been a shift in the understanding of the nature of international law, as it has historically been thought that the authority of international law cannot and should not breach state sovereignty, but contemporary scholarship acknowledges the intricate relationship between international law in the context of emerging

human rights norms and their relationship with individuals and their regard for human rights; for the same, it can highlight special duties and rights in particular situations. In order to preserve its validity, all Law embodies a complex mechanism to highlight and adapt itself in evolving perspectives which could be understood through this example-

One hundred years ago, without breaking any statute, states could resort to war to solve their disputes. The concept of genocide as an international crime against humanity did not exist seventy-five years ago. Just 25 years ago, Since the Internet did not exist in its modern state; the issue of imposing restrictions on the Internet had little significance to governments. Ten years ago, as mobile phones became popular, the prospect of texting and "tweeting" lay in the future (Taulbee & Glahn, 2017).

In its current form, the basis of international law or the law of nations finds its roots in the growth of Western culture and political organization. The establishment of a standardized European notion of sovereignty and geographically fixed, autonomous nation-state needed an appropriate way of conducting inter-state affairs in line with generally agreed common ground/behaviour and International Law undoubtedly filled the vacuum. But while the law of nations took hold and flowered with Renaissance, the roots of this unique hybrid plant are of a much older heritage. While the collapse of the Roman Empire resulted in political turmoil and fragmentation, mediaeval jurists developed some theories that had a significant influence on the future version of international law, such as *jus genitum*, which emphasizes the need for common law applicable to all states, contrary to conventional opinion (Taulbee & Glahn, 2017). The conditions required for its further development, akin to its current iteration, were what it really lacked. A semblance of unification was established by the existence of a single faith with its highly unified institutional system and the establishment of a common-law (canon or ecclesiastical law) universal to adherents, regardless of ethnicity, nationality, or place. Church and state had long become intertwined, with church leaders occupying major political positions (Taulbee & Glahn, 2017). Ecclesiastical law developed during the mediaeval period had a significant effect in a variety of areas such as treaties and their observance, jurisdiction over land, right of conquest with the approval of the church, i.e. just war, papal activity in dispute resolution and the general reliance on divine law to govern several aspects of war. The majority of these

issues fall under the influence of International law presently (Taulbee & Glahn, 2017). With the emergence of autonomous Protestant institutions during the reformation era, direct conflict with the Holy Roman Empire and Catholic churches culminated in their influence in the field of foreign relations. In addition to ending thirty years of war, the peace of Westphalia has brought about a profound change in society. The modern horizontal democratic structure of autonomous independent states that stood on the ruins of old hierarchical feudal order did not recognize any form of superior political authority (Taulbee & Glahn, 2017). Therefore we can understand the bitter reaction of Pope Innocent X when he proclaimed-

"Westphalia's Peace is null, void, invalid, unfair, damnable, reprobate, insane, forever devoid of sense and consequence." (Holsti, 1996).

The Treaty of Westphalia is politically the beginning mark for International law due to the "deliberate enactment of common regulation by concerted action." (Gross, 1948). Moving on to another complex issue, we have now come face to face with a concept therefore complicated that even a minor deviation in its nature will cause a profound change to the whole equation of this relationship i.e. relationship between International Law and Municipal Law. In this contemporary era, even if we speak about a collection of universal laws, the sheer number of sovereign states with their numerous constitutions, the structure of their government, and their position in the international system would definitely overwhelm anyone. As in the past, a significant portion of International law is upheld through national courts and we can also find judges frequently saying that International law is part of their own law. But in fact, we should not determine the scope and complexity of this topic from the previous statement especially in the case of customary International law (Taulbee & Glahn, 2017). We ought to understand the legal procedure involved in applying international law in order to understand the challenges of interpreting international law into "part of our law" and then compare it to see how it really varies from the normal judicial process. Judges must find and interpret the law in the application of International law, and in particular in the application of customary international law, which has arisen primarily from the acts of other Nations, or often through the judgments of international courts (Taulbee & Glahn, 2017).

The customary law may be "common law of nations" but the procedure that determines these laws does not derive exclusively from the acts of any sovereign state. As a consequence, the implementation of international customary law could present a tribunal with a variety of fascinating issues relating to the standards associated with it and a judicial heritage of its own (Taulbee & Glahn, 2017). There are several schools of thought that offer their analysis of this particular partnership composition. For Dualist, In the event of a confrontation, municipal law prevails but International law prevails in the opinion of the monists (Borchard, 1940). For the advocates of Dualism, the implicit loopholes in international law as a legal framework i.e. the readiness by which these laws are violated during the war, have served in their favour to grant precedence to municipal law. The follower of John Austin did their bit by arguing that International law was not law at all because it did not adhere to their strict tests on maxim laid down by a political superior to an inferior and also that the legislatures did not produce International law, and therefore it represented mere precepts of morality in their opinion (Borchard, 1940). It is claimed that the field of operation of Municipal law is among individuals with sovereign powers and International law operates between states. This claim is supported by philosophical reasoning that its creators can not be demanded or coerced into compliance due to the consensual essence of international law. The consent principle further consolidates the reasoning behind this point of view with the fact that consent can be withheld at any given moment. If any merit could be found in these arguments, then the conclusion would suggest that any law bound by consent will never be law because consent is not at all binding (Borchard, 1940)But renowned International jurist Prof. L.F.L Oppenheim argued without any justification in theory or procedure that-

"International law and municipal law are in fact two totally and essentially different bodies of law which have nothing in common, except that they are both branches-but separate branches of the tree of law."(Piccioto & Oppenheim, 1915)

They draw the tragic legal inference from the acknowledged or apparent fact that International law maintains significant influence over Municipal law and to some degree governs its substance, as in the case of diplomatic officers, exemption from the local authority, territorial waters, etc., therefore all law finds its origin in International law, a conclusion that unnecessarily

offends Monists of Municipal law school and Dualists equally (Borchard, 1940). Now, in order to understand the issue of the relationship between state sovereignty and international law with respect to the accountability of any particular activities carried out by an autonomous entity, we must first discuss the ruling of the permanent court of international justice, popularly known as the "S.S. Wimbledon"[2] cases, in which the following findings were made by the court-

"The Court holds that, in the Russo-Polish war, Germany was completely free to control its neutrality but subject to the condition that it honoured and preserved intact its constitutional commitments, including those entered into by it at Versailles on 28 June 1919. These responsibilities included the definite duty to allow "Wimbledon" to travel through the Kiel Canal, and her duties as a neutral did not oblige her to forbid it."

Even though the court put the case to the defender, i.e. The German government was obliged to pay a fixed amount to the plaintiff as compensation for the prejudice suffered by the plaintiff as a result of the defender's act, beginning on 20 March 1921 but One of the essential facts that surfaced in this historic case was that in the condition that if judgment stays unfulfilled, the Court did not grant provisional interest at a higher rate: it cannot and should not contemplate such a contingency (Permanent Court of International Justice, 1923). The impact of this case can be explained along with another famous case, known as "Lotus" decided by the same court four years later Via the statement of Jan Klabbers (KLABBERS, 1998)-

"Together, these two cases establish that International law is by no means unlikely in the horizontal order of sovereign equals; indeed, it is only because states are sovereign that they can make international law possible. However, the same definition of sovereignty means that laws only can be made based on consent. The laws of International law emanate from the freely articulated will of sovereign states on the basis of agreement."

The other problem it highlighted was the irony that sovereign countries are unable to be bound by their own consent. The source of the accountability emerged in the commission of an act of negligence, in particular of an act or omission by the State in violation of its international

[2] The SS 'Wimbledon', United Kingdom and ors v Germany, Judgment, (1923) PCIJ Series A no 1, ICGJ 235 (PCIJ 1923), 17th August 1923, League of Nations (historical) [LoN]; Permanent Court of International Justice (historical) [PCIJ]

commitment to another State. In addition, the vast majority of scholars concluded that the institution of state responsibility's specific purpose was to secure reparation for losses incurred by the damages. As its only legitimate effect was to saddle the liable state with the subsidiary responsibility to render reparations as the consequence of his wrongful conduct (Dupuy, 1989). There was a mundane yet crucial relation between the basis of accountability and its legal implications in the classic version of the concept of responsibility, i.e. there were only two actors in theory which included the party affected by the wrongful act and the liable state. The latest findings called for a reassessment of this conventional theory of State accountability but in reality, the theory's foundations started to shake many years ago. The earliest indications of an interruption of the basic structure of this theory emerged as early as the mid-1960s, when the eminent scholar Wilfred Jenks (Jenks W., 1966), voicing an already existing sense of obligation and relatively profound movement of expression, pleading for state recognition for "Liability for the potentially catastrophic damage caused by their "ultra-hazardous actions." Since this liability was described as existing "without proof of fault," therefore he intended to promote it not only focused on special arrangements, but also on international law in general. This is one of the first western efforts to disassociate the duty to render reparations with respect to such forms of damage that occurred from the prior commitment of a wrongful act by any state (Dupuy, 1989).

A couple of years later, an elaboration on the same concept emerged, when The International Law Commission (ILC) had been advised to prepare and conduct studies to codify the international accountability of States "for injurious consequences arising out of acts not prohibited by international law." (Magraw, 1986). Of course, numerous treaties have already prepared the way for a "primary obligation" of recourse to be developed. However, only one of them, covering reparations for damages incurred by dropping space objects, directly concerning state liability under International public law (Christol, 1980). The issue then emerged and continues, whether there is space for such responsibility, outside of some special arrangement, under general or customary International law. Two blows are struck when committing an unlawful act: one to the rule of law and the other to the purpose covered by the law. The equivalent, therefore to say, of a refusal to understand both the statute and a human right is a wrongful act. Restoration is an expression proposed by these two angles, objective i.e. to

designate the goal and intent of duty. On the one side, abstract, on the other hand, is contextual and sometimes material. This requires both the reestablishment of the legal situation previous to the Action (to maintain the law's integrity) and restitution for the harm sustained, in order to defend the interest of the claimant (Dupuy, 1989). According to a major shift in contemporary versions of the theory of state sovereignty and accountability, International liability must not be seen as a "liability for activities not prohibited by international law," because the lawfulness of action is not prohibited by International law. The procedure depends very much on the way it is carried out and the way it is conducted. Thus increasing responsibility of due diligence under the general cooperation obligation, in particular in the area of dangerous practices and the protected usage of the territory. Then the base or legal framework of this regime, at least in Customary law, is the engagement of a wrongful act therefore the proof of a wrongful act can no longer be the victim state's responsibility, in situations where it was possible to use presumptions of liability due to the presence of significantly well structured international standards.

4.0 China and Mekong River Basin Project

Today, in evolving situations where the power of western nations is not what it used to be and is on the move up, developing nations choose to use their resources to fuel their race towards growth. Therefore going forward to the question of contemporary state responsibility, Western nations' objection to environmental degradation is warranted, but what these countries are doing is no different from how western nations have accomplished growth. According to various reports, even today, the per capita energy intake in Western nations is very high, therefore the question arises who should be held responsible for the present or even potential environmental destruction and should the people of developed countries be kept from achieving even the basic facilities in order to compensate the consequences of the act for which they were not even responsible. We would try to answer the same question via the case analysis of the Mekong River project, which has the capacity to produce over 30,000 MW (Yoshida et al., 2020) of energy and only a proportion of which has been accomplished so far. Despite its various benefits, it commands a very steep price in terms of the societal and environmental harm incurred by hydropower dams. In developing nations, including the Mekong, the harm caused by the dams is higher than the early costs in comparison to initial costs for the same in North America and

Europe. This almost 5000 km long Mekong River, which is one of the largest rivers in the world, originating from the Tibetan plateau and before reaching the Mekong Delta, shares its rich resources with 6 nations, including China, Myanmar, Thailand, Lao PDR, Cambodia and Vietnam. Being one of the richest biodiversity hotspots, this river plays an important part in the life of about 80 per cent of the 65 million people who live in the lower Mekong river basin (Osborne, 2009). The character of the river has been constantly transformed in Yunnan province by China's dam-building scheme since the 1980s as till now 11 dams have been constructed by China which include two large reservoir Dams and plans to construct 11 more which will increase China's hydropower production capacity from 21,310 MW to 31,605 MW which values more than 4 billion $ economically per annum. By 2030 there will be a 'cascade' of seven dams in Yunnan (Osborne, 2009).

The five dams constructed since 2017 are compounding the transition in the natural flow of water when reservoirs are filled or as water is released, according to the research carried out by "Eyes on Earth". In 2019, when part of the river flowing in the Lower Mekong reported some of the lowest river levels ever, one of the greatest impacts was seen of China's dam policy which resulted in a severe water crisis for its neighbours (Basist & Williams, 2020). The conflict surrounds the issue as to how to identify the conflict surrounding the Mekong River Basin project as to whether, for example, it should be addressed as a matter of human rights, cultural heritage, fungible commercial commodities, sovereign wealth, shared goods, commerce and transport routes, or otherwise, the lifeblood of a delicate environment (Golden L., 2003). The Mekong Agreement, which regulates the construction of the Mekong River, lays down the goals and aims of the Mekong River Commission; however, it does not have a binding implementation mechanism and essentially cedes conflict settlement to the Member States' government. The Mekong Agreement would have improved significantly if the four Member States had ratified the United Nations Watercourses Convention. The issue is further complicated by the creation of the Lancang-Mekong Partnership which further undermines the scope of the Mekong Agreement's ability to implement and settle conflicts. The LMC has offered China and Cambodia the ability to circumvent the commitments set out in the Mekong Agreement and to build the Sambor Dam in Cambodia on a bilateral basis. If finished, the Mekong River Basin will

be destroyed by the Sambor Dam and break numerous principles of customary international water law (Phan L, 2019). It is not that these low lying areas of the South East only have to consider the consequences of unsustainable resource extraction of the Mekong River Basin project but their long coastline along with rising sea level will certainly warrant their attention on the already precarious condition of the environment. Rivers are a representation of the wild spirit of nature which sometimes is not bound by man-made boundaries there has been a constant demand to recognize rivers as legal persons with basic rights to ensure their protection from overexploitation which can be clearly recognized in the case of the Mekong River Basin project. The same spirit is represented in the draft of Grant Wilson's Universal Declaration of River Rights which represents 6 basic fundamental rights for Rivers (Kang, 2019)-

* The right to flow.
* The right to perform essential functions within its ecosystem.
* The right to be free from pollution.
* The right to feed and be fed by sustainable aquifers.
* The right to native biodiversity.
* The right to restoration.

These points offer a fundamental idea of an International law that has the ability to cope with the current crisis faced by Mekong River Commission countries due to China's indiscriminate dam construction spree, which is not even a member of this commission. It is evident from the above-mentioned facts that our urgent attention is demanded due To the precarious state of the ecosystem and the Mekong River Basin project does not help in any way to counteract its impact. China's current international status makes it impossible to imagine that it does not recognize the severity of its action and in doing therefore a good deal of International laws/norms are violated, therefore is it an intentional behaviour as the world transitions into a multipolar world with China being a possible superpower contender and no one powerful enough to be a hegemon.

5.0 The Amazon Dilemma- A 3 rd World Perspective

The rainforest of the Amazon is the largest rainforest in the world and occupies over two million miles of land. It encompasses nine countries in South America: Brazil, Colombia, Peru,

Venezuela, Ecuador, Bolivia, Suriname, Guyana, and French Guiana. The lush area gives major benefits to neighbourhoods living close and far. Almost 500 indigenous groups call the home of the Amazon rainforest. It is a massively biodiverse ecosystem that is home to untold plant and animal species. The rainforest can create its own atmosphere and affect temperatures all over the world. The delicate biodiversity, sadly, faces the relentless danger of deforestation and this year has seen destructive wildland fires. Sixty per cent of this rainforest is subject to the state of Brazil's sovereign authority, which has been strongly criticized because of its negligent management of wildfires and major deforestation, which was the largest to date in 2019. In contemporary times, it is important to understand the phenomenon of politicization of environmental issues as the whole global biodiversity is in a very dangerous situation, therefore as normal President Jair Bolsonaro of Brazil came under a lot of foreign pressure and the International community expects consolidated measures in the protection of Rainforest, which is also referred to as lungs of the earth, but Brazil has its own set of expectations from this centre of plentiful natural resource whether sustainable or not for the purpose of its economic development (Stewart, 2020). Jair Bolsonaro, the current president who was sworn in on January 1, 2019, has, like his predecessors, a similar strategy to expand the interior of the country. Bolsonaro is an agri-business advocate and has spoken out firmly against the defence of the Amazon rainforest by many organizations and international nations. He said that he would not tolerate the World Wildlife Fund (WWF) agenda and he firmly opposed lands reserved for indigenous tribes (Stewart, 2020). Initially, Bolsonaro refused the attention of the media and foreign powers after the 2019 forest fire outbreak, arguing that the forest fire claims were sensationalist.

However, after the continuously mounting International pressure at the 45th G7 meeting, where he was confronted with the chance of failing an EU-Mercosur free trade pact, Bolsonaro sent more than 44,000 troops to the interior to combat fires. Bolsonaro aims to build nuclear and hydroelectric power in the Amazon Basin, as well as to increase nickel mining activities, which may prove problematic to others. In particular, governance takes place as new environmental principles are established, as some structural forms are entrenched, and as players, even with divergent agendas, pursue places of the synergy of substantiated coherence and legitimacy (Bratman, 2019).

The ongoing crisis draws our interest as we can ascertain that two sides are yet to enter a position of confluence. The origins of this legal question are of a political/social nature, making it impossible to obtain concerted conformity with International law for the good of society as a whole.

The concept of sustainable development has been taken for granted but we still yet to reach a consensus in order to devise goals and carve out a sustainable path. Different players express sustainable development as a philosophy, spanning from the grassroots stage to multinational organizations, and discuss the contradictions between their approaches. Sustainable development must be analyzed precisely because it has been taken for granted because we can identify how the rhetoric can help to legitimize and favour those values over others and how it orients specific visions expressed by players of the state and civil society while making other discourses and values more marginal (Bratman, 2019). Perhaps this notion is part of a very broad cleavage that has arisen as a result of formerly underdeveloped countries' economic strengthening as many political theorists belonging to 3rd world countries view sustainable development as a means to consolidate and enforce contemporary inequality. The political ecology of capitalism is profoundly entangled with the philosophy of sustainable growth, which is manifested and co-constituted by economic, political, and social forces intervening on multiple levels via assemblages of socio-nature (Bratman, 2019).

We get a more in-depth view of Amazonia's social and political understanding through the process of articulation which is defined by theorists such as Antonio Gramsci and Stuart Hall as a process in which a position, an identity, or a collection of interests is made and then connected to other convergent identities and interests within historical backgrounds. In other words, the temporal overlap of individual elements includes articulations; the term tends to understand how individuals present their roles and then come together through shared definitions of location, history, or beliefs. Articulation will work to align individuals with a sense of mutual values, common purpose, and social unity. Articulations change and are sensitive within historical contexts and rely on agency procedures, political openings, and fluidity in their traditionally ingrained and iterative self-formations. The depictions of hardships frequently

enforced by others often refuse agency to the subaltern voices Instead of ascribing them as distortion or idealized image of their experiences and livelihood. Subaltern viewpoints can acquire greater agency over their self-representation by tracing the mechanisms of articulation, and more complexity can be obtained as the realities of power dynamics and ideologies are examined (Zhong & Wang, 2016). Since almost the beginning of the term Sustainable Development, scholars have dismissed the relevance of the concept of sustainable growth, but particularly since it remains too much in practical usage, it is necessary for the scholarly effort to engage it. The environmental philosopher Timothy Luke pointedly argues that "one of the most unquestioned environmental philosophies in the world" has been sustainable development (LUKE T.W, 1997).

As explained in the words of John B. Robinson (2004) who claims that sustainable growth is generally understood as a dialogue and a policy structure that believes that short-term demands and long-term economic prosperity, ecological sustainability, and social justice can be matched. Win-win scenarios may often be uncovered in social, economic, and environmental terms, but they are often too uncommon and brief. Ultimately, it could be similar to the geometrical problem of squaring the circle to "do" sustainable growth in a suitable way: impossible.

Therefore the dilemma presented by the case of the Amazon rainforest cannot be solved by a concept that promotes a feeling of negligence and alienation and if we try to explain the present strain on the use of resources of Amazon rainforest which falls under the sovereign jurisdiction of 3rd world states especially Brazil then we can understand that the issue is not with the applicability of International law but it is against the values attached with a positive law which promotes specific interests.

6.0 Conclusion

One of the most engaging/difficult activities inherent in this phase is forecasting the future based on previously occurring events or the process of deciphering them as they are, as we do have some prejudices or beliefs that undoubtedly bear the possibility of affecting the final result. But as in the words of Michael Sandel, who says that it is impossible to divorce any

individual's beliefs and prejudices as they are building blocks of who he is that he gains from his/her culture as well as experience. Chaos often follows Transformation, which is a natural phenomenon, and in order to explain the essence of this transformation, we need to understand the historical circumstances unique to the time that has contributed to the creation of the contemporary iteration of the entity or process in question that we have tried to uncover in the previous sections of this article. So here, it is the issue of growing pressures in the complicity of International law which are definitely laden with pro-western ideals, and as the situation shifts with the emergence of non-western nations in the International System, the present system would certainly need a structural shift to conform itself to its framework.

As we tried to understand, in the case of the Amazon rainforest in Brazil, which at the moment is more than a matter of International law. The autonomy that is the result of a Western notion of a physically bound state system is what gives Brazil the right to use the rainforest of the Amazon in order to pursue economic prosperity as accomplished by the countries participating in the industrial revolution. So what makes it wrong for Brazil to do the same in contemporary times, is it an act to preserve the status quo or is it wrong because, thanks to the previous industrial revolution, the environment is already degraded and now those nations want developing countries to bear these ramifications for their future.

And, in the case of China, who, like a powerful contender for a global superpower, is equally motivated by national interest and also walks along the same route used by the present and previous hegemons of the world. So we should not anticipate the reciprocal responsibility needed for the proper functioning of International law until Public International law is restructured to accommodate the rising community of formerly colonized states who have even more incentives to disown the ideologies and principles that bound them to a life without freedom. The irony of this situation is that right today; Western nations have a significant role to play in environmental destruction, as can be visibly deciphered by the vast difference between the per capita energy consumption of Western people and developing/3rd world nations. The expectation of choosing a more costly and complex mode for which they are currently deficient in technology can not be termed a just solution to the current problem. The act of state responsibility that is not bound by borders warrants fixing current problems with the act of state

responsibility that is not bound by time, i.e. To find a shared framework for a solution, the countries responsible for environmental destruction must work closely with developing countries. At the end of the day, we do and will require an International law framework to govern the working of International actors, but the present model of International law will face difficulties in seeking a solution to problems such as the Mekong river basin project and the Amazon rainforest crisis, as it does not justify adequate cooperation to run seamlessly in the absence of authority to ensure formal enforcement. Up until recently, the non-formal role was played by the United States, but the economic position, interdependence and nuclear deterrence make it impossible to influence enough nowadays in the current world with multiple poles of power and influence.

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