

THE APPLICATION OF THE DOCTRINE JUS COGENS IN CONTEMPORARY INTERNATIONAL LAW

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Abstract

This article examines the application of Jus Cogens in Contemporary International Law, bringing into focus its development, key applications and challenges. It highlights the doctrine significance in upholding fundamental norms and proposes directions for future implementation. The research article discovered the natural and positive theories of Laws and its impact in the Nigeria legal system. Jus Cogens, also known as peremptory norms refers to a set of fundamental principles of international law that are binding on all States and from which no derogation is permitted. The doctrine of Jus Cogens as a norm of International Laws comprises of treaty, Law and State sovereignty. The article explained Jus Cogens application in modern International Law putting into consideration its evolution, application and challenges. The research made some findings and recommendations aimed at improving the jurisprudence of the Nigerian legal system.

Keywords

Doctrine Jus Cogens,

Contemporary International Law.

1. Introduction

The Doctrine of Jus Cogens played a significant role in the development of Customary International Law. Thus, diving into the application of these peremptory norms into the Nigerian legal Corpus Juris to discover the entire political world of how law operates in our various statuses and the constitution.

The Nigerian legal system and many others are grappling with the application of Jus Cogens norms as some countries in the world does not obey these peremptory norms and enforcements against the defaulters of the Laws that came into force from the Vienna Convention of the Laws of Treaties in 1969 and United Nations Declaration of Human Rights (UNDHR) in 1948.

In Nigeria, the application of Jus Cogens is governed by the Constitution of the Federal Republic of Nigeria 1999 (as amended) and various international law principles adopted into our legal system.

The Nigerian Constitution provides that treaties and international agreements ratified by the National Assembly are part of the Nigerian Law.

Jus Cogens norms being fundamental principles of international law are considered part of Customary International Law and are therefore, applicable in Nigerian Courts have severally applied Jus Cogens norms in various cases including human right cases.

Schools of Jurisprudence Theories of Law

The schools of jurisprudence are the theoretical frameworks that study the nature, purpose and functions of Law. It is primarily divided into three legal applications viz-a-viz: Natural Law, Positive Law and Sociological Schools. These theories are legal applications which examines whether law is based on morality, sovereign command, judicial behaviour, custom and social norms.

It is through these various schools of jurisprudence that drafted aspects of Laws are made for the benefit of the international community. The school of jurisprudence theories of law provides the framework for understanding the application of law and shape how we interpret and apply laws in various context.

The key applications are the Natural Law which influences human right and constitutional law.

Positivism which contributes in shaping the legal systems and statutory interpretations and legal realism which impacts judicial decision-making and law reforms.

Sociological Jurisprudence which informs Law and policy making historical jurisprudence highlights and guide the interpretation of traditional and customary laws.

Natural Law Theory

The natural theory of law posits that law is derived from higher, universal moral order that is inherent in nature. It is an approach driven theory that the universal order cannot exist effective without laws governing it. Every indivisible existence must be governed by law. Human, plants, animals, galaxies, oceans and seas must succumb to the natural order of law to co-exist with each other; it is a clear viewpoint that for the universe to be in balance there must be an irrefutable orderliness and that balance must be in consonance with the natural law.

The key proponents of the natural law theory are Aristotle, Thomas Aquinas and John Locke. These philosophers of the naturalist school of thought will be discussed in detailed in the next few pages.

Natural law can be said to be a set of moral principles that are universal, absolute, and unchanging.

Positivist Law Theory

The positivism theory argues that law is a human construct created and enforced by social and political institutions. The positivism or the positivists see laws as a total creation of human in a bid to foster effective relationship between men. The conduct on which the society must operate with a guide to its inhabitants is a ground norm of positivist theory of law.

The key proponents are Jeremy Batham, John Austin and H. L. A. Hart. The core idea of these philosophers is that law is a system of rules created by human authorities, and its validity is determined by its social and institutional context. It is important to note, that these laws created by man enabled by those bequeathed by the power and authority to make these laws ensures that they must be obeyed and that any violations or disobedient to these laws attract punishment.

Sociological Theories of Law

The sociological theories argued that law is shaped by the social context in which it operates, including factors like culture, economics and politics. The key concept in the sociological theories is social construction which agrees with the idea that law is constructed through social interactions and relationship. Otherwise, social construction refers to a concept or idea created and shaped by social interactions, cultural norms and collective beliefs. In the context of sociological theories of law, social constructions play a significant role in understanding how law is formed, interpreted and applied.

A social construction has significantly impact on sociological theories in several ways:

Law as a Product of Social Forces

Sociological theories view law as a product of social dynamics, shaped by factors like culture, economics, politics and societal values.

Empirical Analysis

Sociological jurists use empirical methods to study legal phenomena analyzing data on legal norms, institutions and practices to understand how law operates in practice.

Focus on Social Values

Social values play a crucial role in shaping legal rules and decisions.

Sociological theories examine how social values influence legal development and how legal rules promote or hinder social goals like justice, equality and social order. The sociological school of jurisprudence has faced criticisms from various scholars. Some of which includes:

Legal Formalism

Critics argued that sociological approaches neglect legal principles and rules prioritizing social context over legal certainty and predictability.

Natural Law Theories

Some critics believe that sociological approaches lacks attention to moral and ethical considerations in law, neglecting the normative dimensions of law.

Critical Legal Studies

Scholars argued that sociological approaches often reinforce existing power structures and inequalities, failing to address systematic injustices within legal system.

The very aspects of social construction which are based on three systematic approaches viz-a-viz:

Socially created posits that social constructions are created through social interactions, cultural practice and collective agreements.

Culturally Relative: Social constructions can vary across different cultures and societies, reflecting the unique values, norms and belief of each culture.

Dynamic and Changing: Social constructions can change over time as social contexts. In the context of sociological theories of law, therefore, social constructions play a significant role in understanding how law is formed, interpreted and applied in our international legal corpus.

In conclusion, it is important to discuss the key sociologists and their contributions to the sociologists and the contributions to the sociological theories of jurisprudence.

Emile Durkheim

A French sociologist, viewed law as a social phenomenon shaped by social forces and collective beliefs. His work focuses on the study of social facts and how they influence individual behaviour including legal norms and institutions.

Max Weber

A German sociologist emphasized the role of bureaucracy and national legal authority in modern legal systems. His concept of “legal rationalisation” highlights the connections between law and broader social structure and process.

Karl Max

A political theorists and economics saw law as a tool of the ruling class to maintain its dominance. He believed that economic factors and class struggles shape legal systems.

The Role of Jus Cogens in Treaty Interpretation

Jus Cogens plays an important role in treaty interpretation by serving as a set of fundamental principles that override other norms of international laws. These important principles of Jus Cogens are considered universal, inalienable and binding on all states. In the interpretations of treaties, Jus Cogens norms can limit treaty validity because of its universal applications and as such any treaty that conflicts with its principles are considered void. The Jus Cogens norms can also, influence treaty interpretation because treaties are interpreted in such a way that it aligns with Jus Cogens principles. It can also provide a framework for human rights; such as prohibits of genocide, torture and slavery and guides treaty interpretation to ensure protection of human rights.

By incorporating jus cogens principles, treaty interpretations can prioritize fundamental human rights and dignity Jus Cogens principles has played a significant role in treaty interpretations particularly in the Nigerian law with its famous applications imported into the Nigeria Legal Corps and constitutional framework Nigeria's 1979. Constitution requires that international treaties should be enacted into laws of the National Assembly before they become bindings. Although, the fundamental rights of Nigerians citizens are enshrined in the 1999, constitution (CFRN) as amended significantly in chapter 4, the 1979 constitution laid the foundation within which the 1999 constitution outlined the fundamental rights of her citizens.

Treaty Implementations

The Nigerian courts have emphasized the importance of implementing international treaties especially those related to human rights. The cases of *Abacha v Fawehinmi* highlight the role of treaties in Nigerian law. Also, the balance between state actions and individual rights was also addressed in *Ogugu v the state* case that involved a challenge to death sentence. The appellant argued that the death penalty violated his right to life under section 33 of the Nigeria constitution and Article 4 of the African charter on Human and people's life (ACHPL). Although, the Supreme Court upheld the death penalty, it affirmed the crucial role of Nigeria's constitution and international obligation in protecting human right. This case reinforced the delicate balance between constitutional rights and the international human rights within the Nigerian legal system.

Jus Cogens in Nigerian Courts

While there may not be direct references to jus cogens norms in Nigerian case law, the principles underlying these peremptory norms, such as the prohibition on torture and slavery are recognized and applied in Nigerian court. Having discussed elaborately on jus cogens role in treaty interpretations, it is important to discuss the contemporary intentional law and treaty interpretation in Vienna convention on the law of treaties (VCLT). The Vienna convention on the law of treaties outlined the principles of treaty interpretation in articles 31-33.

Article 31 (General rule of interpretation) outlines the general principles for the interpretations of treaties including good faith, ordinary meaning, context and object purposes. The treaties should be interpreted in good faith, considering the ordinary meaning of terms in their context and in the right of the treaties object and purpose. The context of the treaty's interpretation in article 31 includes the text, preamble, annexes and any agreements or instruments related to the treaty which implies that any subsequent agreements and practice between parties regarding interpretation or application should be taken into consideration. Also, relevant rules of international law applicable between parties should also be considered.

The imparts of the Vienna conventions in the interpretations of treaties in both the United Kingdom and

Nigerian legal jurisdictions is important to both legal system in interpreting their local laws. The United Kingdom where Nigeria derived its legal system is a signatory to the Vienna convention and has incorporated its principles into their domestic laws, Article 31 influences UR's courts approach to treaty interpretation, ensuring consistency with international laws. United Kingdom's courts consider the treaty's object and purpose, context and subsequent agreements when interpreting treaties. The practical applications in interpreting treaties both in the United Kingdom's courts and the Nigeria courts lies in consistency with international law as both countries strive to interpret the articles. Articles 33 of the Vienna convention on the law of treaties which deals with the interpretation of treaties authenticated in two or more languages. According to this article when a treaty is authenticated in multiple languages, the terms are presumed to have the same meaning in each language of which that best reconciles the texts is adopted considering the treaty object, and purpose. The article 33 impact is also significant in regional court of justice (ICJ) which has severally applied it in cases such as la grand demonstrating its role in instituting legitimacy in treaty interpretation. Regional courts may consider article 33 when dealing with treaties, languages, ensuring authenticated in multiple and consistent interpretations across languages.

In the interpretations of treaties, three key aspects are important in interpreting Article 33 of the Vienna convention. (1) presumption of equality; all authentic texts of a treaty are considered equal (2) presumption of same meaning; terms are considered and presumed to have the same meaning in each authentic text. (3) Reconciling Discrepancies. When despanices arises from its interpretations, the meaning that best reconciles the texts is adopted considering the treaty's object and purpose.

The Relationship between Jus Cogens and Customary International Laws

The relationship between Jus cogens and customary international law is a complex and nuanced one with significant implications for international legal obligations. Jus cogens norms which occupy a superior position in the hierarchy of international law is characterized by their absolute and universal nature. Customary international law, derived from state practice and opinio juris plays a crucial role in shaping international legal obligations. Although, both jus cogens and customary international law are two fundamental concepts in international law, there are key differences between both concepts.

Firstly, in hierarchy, the Jus cogens norms are considered superior to customary international law because it is absolute and universal while customary international law can be modified or derogated from.

Secondly, jus cogens source as a norm are derived from fundamental principles of international law while customary international law is derived from state practice and opinio juris (belief that a particular practice is required by law).

Thirdly, in the scope of their reasons applications and implementations, jus cogens norms have universal applications, therefore, it can easily be implemented while customary law may have more limited scope because of its task of universality which makes it difficult to apply its application.

The customary international law can evolve into jus cogens norms over time as widespread state practice and opino juris contribute to the development of peremptory norms making customary law to evolve into jus cogens norms. The jus cogens norms can also inform and shape customary international law, as state and international organizations seek to align their practice with fundamental principles of international law.

In Nigeria, the application of customary international law is incorporated into Nigerian law but its application is subject to certain qualifications which must be observed as customs that is in inter-dependent with the constitution of the land which primarily must not be repugnant to natural justice, equity and just course. The various courts in Nigeria have applied customary international law in various cases recognizing its importance in international laws. Again, customary law has played a significant role in Nigerian jurisprudence, particularly in areas such as;

Family law: In Nigeria, customary law governs marriages, inheritance and other family related matters.

Dispute Resolutions: Customary arbitration is recognized and enforceable in Nigeria, provided it meets certain validity threshold.

Land Law: Customary law in Nigeria regulates land ownership and usage rights.

Some of the key cases in the application of customary law in the Nigerian legal system are (i) Ofomata v Anoka which established the importance of customary law in Nigerian legal jurisprudence and (ii) Ojibah v Ojibah which highlighted the role of customary law in family matters (iii) Okoye v Obiaso also defined the validity and enforceability of customary arbitration.

The challenges and limitations of customary international law can be expressly limited by an act of National Assembly or any other National body or regulatory body of each nations. Customary law may also conflict with

statutory law or common law, requiring careful consideration by courts.

Finally, the relationship between Jus cogens and international customary law is complex with both concepts playing important roles in the international legal system.

Relationship between Jus Cogens and State Sovereignty

The concept of state sovereignty has long been a cornerstone of international law, granting states supreme authority to oversee its affairs within their territories and independent from external interference. However, with the emergence of jus cogens norms in international laws, it has introduced a significant limitation on state sovereignty and has imposed absolute and universal obligations that transcend individual state interest. This tension between state sovereignty and jus cogens norms raises fundamental questions about the nature of international law and balance between state autonomy and global governance. This topic will explore the complex and nuanced relationship between jus cogens norms on state sovereignty, the implications for state sovereignty and the delicate balance between state autonomy and international community interest.

By analyzing the theoretical foundations of jus cogens and state sovereignty as well as relevant case laws and state practices, this topic aims to contribute to a deeper understanding of the evolving landscape of international law and its impact on state sovereignty.

The concept of state sovereignty has long been a cornerstone of international law, granting states supreme authority within their territories and independence from external interference. However, the emergence of jus cogens norms has introduced a significant limitation on state sovereignty imposing absolute and universal obligations that transcend individual state interest. This tension between state sovereignty and jus cogens raises fundamental questions about the nature of international law and the balance between state autonomy and global governance. According to Brownlie, the concept of sovereignty is a complex and multifaceted one, and its relationship with international law is not always straightforward’.

The emergence of jus cogens norms has further complicated this relationship as states are now bound by certain fundamental principles of international law that cannot be derogated from even through treaty or domestic law.

The limitation imposed by jus cogens norms on state sovereignty is a challenge to the customary international law jurisprudence. According to international law commission; jus cogens norms impose significant limitations on state sovereignty including the prohibition of certain acts such as torture, genocide and slavery.

Cassese posited that ‘jus cogens norms have a profound impact on state sovereignty limiting the freedom of states to act as they see fit. Also, the implications for state sovereignty by jus cogens norms are far-reaching with states required to balance their sovereignty with their obligations under international law. As noted, by Brownlie “the relationship between jus cogens and state sovereignty is complex and nuanced with states required to navigate the tension between their sovereignty and their obligation under international law.

The delicate balance between state autonomy and international community interests is a central challenge in the relationship between jus cogens and state sovereignty.

According to Crawford; “The international community has a vital interest in promoting the development and application of jus cogens norms while also respecting the sovereignty of states.

In conclusion the relationship between jus cogens and state sovereignty is complex and difficult with jus cogens norms imposing significant limitations on state sovereignty. This topic has demonstrated holistically that jus cogen norms transcend individual state interests, imposing absolute and universal obligations that states cannot derogate from. The implications of this relationship are far reaching with states required to balance their sovereignty with their obligations under international law.

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The findings in this topic have significant implications for the development of international law and the role of states in the international community; thereby expressing limitations and conflicts in the implementations in various states laws.

As Shaw notes, “the sources of international law are diverse and complex and their applications can be nuanced and context dependent.

In light of the above; it is appealing that further research be conducted on the implication of jus cogens norms for state sovereignty, particularly on the emerging global challenges. Additionally, states and international organizations should prioritize the development of clear and consistent guidelines for the application of jus cogens norms in order to promote greater clarity and predictability in international law.

The Significance of Jus Cogens in Contemporary International Law

Jus cogens norms play a pivotal role in contemporary international law serving as fundamental principles that protect human rights and maintain global justice. These peremptory norms are binding on all states, and no derogation is permitted ensuring that certain essential values are upheld universally. The concept of jus cogens has emerged as a cornerstone of contemporary international law, representing a set of peremptory international law that are binding and are recognized by all states in the global community. The jus cogens norms are considered superior to other international legal obligations, taking precedence over treaty obligations and customary law and any international laws in conflicts with these peremptory norms will be voided ab initio. As noted by the international law commission, jus cogens norms accepted and recognized by the international community of state as a whole as norms from which no derogation is permitted. The significance of jus cogens in contemporary international law cannot be underestimated because of its far-reaching implications for state sovereignty, international relations and the protection of human rights.

As observed by Brownlie. “The concept of jus cogens is a reflection of growing recognition of the importance of certain fundamental principles of international law”. Jus cogens norms have been recognized as various international instruments including the Vienna conventions on law of treaties (1969) and the international law commissions Article on state responsibility (2001).

The concept of jus cogens is further rooted on the idea that certain fundamental principles of international law are so essential to the international community that they cannot be derogated from, even by consent of states. These norms are considered peremptory meaning that they are binding on all states, regardless of their individual consent or practices.

Jus cogens is defined by the international law commission as “norms accepted and recognized by the international community of states as a whole as norms from which no derogation is permitted”.

From the definition above, these peremptory norms have several key characteristics including universality which expressly agreed that jus cogens norms are binding on all state regardless of their individual consent or practice and that it is superior as it takes precedence over other international legal obligations including treaty obligations and customary laws.

The significance of jus cogens in contemporary international law cannot be overstated, because they have far-reaching implications for state sovereignty, international relations and the protection of human Rights. The impact on state sovereignty cannot be undermined as jus cogens norms limits its powers and duties by imposing absolute obligations that cannot be derogated from. These means that states are bound by laws emanating from these norms even if they have not consented to them.

Jus cogens impact on international relations also, provides a framework for states to engage in diplomatic relations negotiate treaties and resolve disputes. It is crystal clear that without this natural order of these peremptory norms, the international community would have been unfriendly with each other and the legal frameworks to foster diplomatic relationships in terms of international trade and economic policies would have been so stringent as the world established order would have been holding sway on the survival of the lesser Nations. There would have been tremendous bottlenecks in the operations of maintaining law and order because the bigger and stronger communities in the international communities would have been invading lesser states for an unjust reason. The jus cogens norms impacts on human rights plays a critical role in protecting the rights of the citizens as enshrined in their various constitutions. These fundamental principles of the international law provide a foundation for international human rights law, ensuring that states are held accountable for their actions.

In conclusion, jus cogens norms play a critical role in contemporary international law as the peremptory norms have a far –reaching implications for state sovereignty, international relations and the protection of human rights. As the international community continues to evolve, the significance of jus cogens will only continue to grow in every manufacture of human rights. Economic and legal wellbeing of the states of the international community.

Application of Jus Cogens in Nigeria

The concept of Jus cogens has emerged as a cornerstone of contemporary international law, representing a set of peremptory norms that are universally recognized and binding on all states. These norms are considered fundamental to the international legal order, imposing absolute obligations on states that cannot be derogated from. Nigeria, as a member of the international community is bound by these norms, which have significant implications for its domestic legal framework. Beyond the domestic legal framework, Nigeria is also a signatory to international treaties such as the international covenant on civil and political Rights (ICCPR) and the African charter on Human and people’s rights (ACHPR).

These treaties embody jus cogens norms and obligated Nigeria to uphold them through its domestic legal mechanisms. For instance, the African charter has been domesticated into Nigerian law through the African charter on human and people's rights (Ratification and Enforcement) Act, making it parts of Nigeria's legal corpus and reinforcing jus cogens norms. Despite these constitutional and legislative guarantees, the enforcement of jus cogens norms in Nigeria faces significant challenges. The tension between state security and individual rights, particularly during times of internal conflicts or emergency has often led to a situation where these fundamental rights are violated.

Examples include extrajudicial village, arbitrary detentions and torture, often by security agencies and orchestrated by the radical impurity of the execute. Some of the key applications of jus cogen in Nigeria enshrined in chapter four of the constitution of the federal Republic of Nigeria (CFRN) 1999 as amended are the prohibition of Genocide which bounds Nigeria like all states for the prohibition of Genocide which widely recognized jus cogens norms which obligates states to prevent and punish act of genocide. Again, the prohibition of tortures which reflects the international community's commitment to preventing and punishing this form of Human rights abuse. The constitution on its fundamentally rights of the Nigerian citizens prohibits slavery, which underscores the international community's commitments to eradicate practices that violate inherent human dignity. In Nigeria, jus cogens norms can be applied directly even if they are not domesticated or incorporated into domestic laws.

According to a study on the status of customary international law, including jus cogens norms, constitutes federal law, irrespective of their content.

Having provided a comprehensive analysis of the application of jus cogens in Nigeria, exploring the implications of those norms for the country's legal system and its obligations under international law.

Stare Decisis (Case Laws Analysis)

Nigerian courts have applied jus cogens principles in various cases, upholding fundamental human rights and international law norms. In the case of AG Abia State v AG Federal the court recognized the supremacy of jus cogens norms emphasizing their binding nature on all states by upholding human rights and fundamental freedoms of her citizens.

In Oluwabukola v AG Lagos the court in its ruling applied jus cogens principles in protecting human rights, specifically the right to life and dignity. The Nigerian courts in various cases uphold the prohibition of torture and slavery. In Eze & 147 ors v Governor, Abia State & 2 ors. The court held that torture and other forms of cruel, inhuman and degrading treatments are prohibited under jus cogens norms. Also, in the case of Yantaba v Governor Katsina state the court recognized the prohibition of slavery and human trafficking as a jus cogens, norms.

In the international law and treaty obligations, the courts in its various judgments obeyed the jus cogens norms especially in the cases of Touton SA v Grimaldi compania Di Naviga zom SPA where the court applied jus cogens principles in determining the validity of international treaties and agreements. The case of Purechem Ind. Ltd v Specia Shipping Co Ltd, the court recognized the superiority of jus cogens norms over treaty obligations. The court on the cases of limitations of state sovereignty in AG Bendel State v Aideyan, the court held that jus cogens norms limit state sovereignty, imposing absolute obligations on states. In the case of Faleke v INEC, the court recognized that jus cogens norms can restrict state actions, ensuring compliance with fundamental human rights and international law. In recent times, the court has used stare decisis for the application of their judgments. The case of Azubuogu v Oranezi, the court in their decision emphasized the importance of stare decision in ensuring consistency and predictability in judicial decisions.

Another case, AG Lagos State v Eko Hotels Ltd, the court reaffirmed the principle of stare decisis highlighting its role in maintaining judicial integrity. Again, in Gommi v Surundi, the court applied the doctrine of stare decisis, emphasizing its significance in the administration of justice. Also, in PDP v INEC; the Supreme Court applied the doctrine of stare decisis in case involving electoral disputes.

The Relationship between Jus Cogens and Human Rights

The relationship between jus cogens and human rights is a fundamental aspect of international law, shaping the protection of human dignity and well-being globally. Jus cogens norms as a peremptory principle of international law, impose absolute obligations on states to respect and protect human rights. The development of jus cogens norms has been instrumental in establishing a framework for international human rights law. These norms provide a foundation for protecting fundamental human rights, such as the prohibition of torture, slavery and genocide. However, the implementation and enforcement of jus cogens norms remain significant challenges, particularly in the face of emerging human rights issues.

Jus cogens as a positive international law gives judicial effect to the natural laws prohibition of the conduct of violation of some aspects of the terms of translational common good that reflects absolute human rights.

The foreign Relations of the United States (Restatement) defines jus cogens to include at a minimum, the prohibitions against torture genocide slavery or slave trade, murder, or disappearance of individuals, cruel inhuman or degrading treatment or punishment prolonged arbitrary.

Generally, Jus cogens as part of international law prohibits slavery, piracy and acts of aggression or illegal use of force and some certain Human Rights provisions like those prohibiting racial discrimination.

The relationship between jus cogens and Human Rights therefore, can be summarized as follows:

Provides the foundation and framework for Human Rights.

Represents the fundamental principles of Human dignity and well-being.

Universal and non-derogable.

Peremptory in nature; taking precedence over the international laws and domestic laws.

The human rights is built upon the foundation of jus cogens norms and have a detailed and specific protections for individuals including the mechanisms for enforcement and implementations. The jus cogens norms are the connections of Human Rights law as both are universal, non derogable and peremptory. In its holistic form, human Rights law elaborates and expands on jus cogens norms.

Together, both jus cogens and human Rights provide comprehensive framework for protecting human dignity and well-being.

In summary, Jus cogens and human rights are essential for the overall development of the international society in line for the effective monetary of human in our various international, regional and state communities.

Tensions between Jus Cogens and Cultural Relativism

The relationship between jus cogens and cultural relativism is a complex issue in international law with jus cogen norms imposing universal standards on states and cultural relativism emphasizing cultural context and diversity. Jus cogens norms are fundamental principles of international law that imposes universal standards on states, particularly in the realm of human Rights. This peremptory norm prioritizes the protection of human dignity and well-being as seen in the prohibition of torture slavery and genocide.

According to valid, jus cogens emphasizes the importance of human beings rather than conforming to state – centric international laws.

Cultural relativism argues that human rights should be understood within specific cultural contexts. This perspective recognizes that cultural differences reflect diverse norms and priorities. However, radical cultural relativism, which proposes that all cultural practices are equally valid, is widely rejected due to its potential treat that to universal moral norms and jus cogens principles. Again, the manifestations of tension and cultural relativism are in three different dimensions:

Universalism vs Relativism; jus cogens norms assert universal standards, while cultural relativism emphasis cultural context and diversity.

Cultural diversity vs Human Rights. Cultural relativism may justify practices that violate human rights while jus cognis norms priorities human dignity and well-being.

State sovereignty vs international law cultural relativism may be used to justify state sovereignty and non-interference, while jus cogens norms impose international obligations on states.

The implications of these tensions for human rights protections are significant and a nuanced approach that balances universal standards with cultural sensitivity and contextual applications is necessary to resolve this tension.

According to Steiner and Alston universality of human Rights does not mean total exclusion of cultural diversity. Ulf Linder-falk argues that jus cogens norms have legal consequences that orderly international law does not but notes, that international lawyer have differing ideas about these consequences.

Justila Brune discuss the challenges of enforcing jus cogens norms particularly relation to the prohibition on torture. She notes that domestic courts have struggled to clarify the implications of jus cogens and that natural rule on the relationship between international and domestic laws can undercut the non-derogable quality of jus cogens.

In conclusion, the tensions between jus cogens and cultural relativism require a critical and nuanced approach. By understanding the implications of these tensions for human rights protection, jurists and legal writers can work towards developing a more effective and culturally sensitive approach to human rights protection. It is important for states, international organization and human rights advocates to dialogue in order to promote

greater understanding and respect for human rights while acknowledging cultural diversity.

2. Summary

The Jus Cogens norms refer to as peremptory principles of International Law that is bringing on all States regardless of consent. These norms include prohibitions on genocide, torture and slavery. It is a positivists norm by which majority of international States drafted their constitution. In Contemporary International Law, Jus Cogens applications are through treaties, customs and judicial decision that protect human rights and override conflicting Laws.

The Jus Cogen norms can invalidate conflicting treaties or domestic Laws and they guide and stipulate how international courts should operate. (Examples, International Criminal Courts (ICC) and the International Courts of Justice (ICJ) complied with rules of the Jus Cogens norms in adjudicating serious crimes against humanity.

The greatest challenge is the holistic and acceptable definition of the scope of Jus Cogens norms and ensuring State compliance remain contentious issues.

Jus Cogens norms are identified in this article as part of Nigeria's legal framework, influencing human rights and international Law. In Nigeria, Jus Cogens norms are considered fundamental principles that override conflicting domestic laws. The African Charter on Human and Peoples Rights (Ratification and Enforcement) Act, Cap 10, Laws of the Federation of Nigeria 1990 incorporates Jus Cogens norms into the Nigerian Law.

3. Conclusion

The doctrine of Jus Cogens plays a crucial role in upholding universal human rights and holding State, accountable for serious violations. Its applications continue to evolve in international courts and national jurisdiction. It upholds the principles of Laws of various International communities as most National Constitutions especially on the areas of Human Rights are derived from these international norms. It may impose sanctions for violations and Diplomatic pressures against States.

4. Recommendations

The dissertation makes the following recommendations.

The weak enforcement of jus cogens norms as an international law and the application of the principles of these norms by some states are a thing of concern. Some certain institutions and machineries put in place for the adjudications and enforcement of these international laws are doing their best but some bigger states disobeys and disregards some of adjudications from these bodies. To address this issue; it is recommended that the international communities should come together under one body and establish a unified global enforcement agency for enforcement against defaulters.

The activities of the United Nations and other international bodies like the world Trade organization have impacted on jus cogens principles. However, far from being a period of international cooperation and global order the years of jus cogens principles from the Vienna conventions on the Law of Treaties (VCLT) has revealed the inherent difficulties of trying to create and maintain an international order that peruse both global peace and unfettered international Human Rights while also, allowing various states the freedom to pursue their own Human rights, Economic rights and Trade rights in consonance with the jus cogens norms. Thus, there is need to regulate the inter-state activities without much interference and to organize an institutional co-operation tool able to contribute to a balanced revolution of the international laws especially as it affects the developing countries. It is better to let each State operate, although with international best practice to the rule of law without attempts at interventions. Attempts to always influence states this through unnecessary international diplomacy will only make things worse. Therefore, it is better to allow each state to reach their potentials in every aspect of the individual State rights.

As a results of the unnecessary interference by some wealthy and powerful States on the institutions saddled with the responsibilities of handling challenges and conflicts between states (such as ICJ, ICC etc) some of these bodies has compromised because their funding comes from these advanced independent states. For instance, American and some European states establishment of NATO in Ukraine has led to Russian invention of Ukraine and the consequences arising from that invasion has effected some international trade chains supply and has caused some global instabilities. The institutions saddled with the responsible of maintaining these jus cogens norms and international laws should be braced up with their duties without adhering to the interferences. It is also very important that monetary allocation role should encompass and include all the international communities.

The international community in a bid to foster unity and make progress especially in the area of Human Rights should go back to history and study again some fundamental documents of liberty in order to foster legal Hanomonizations and co-operation between countries. For instance, Magna centa (magna cater libatum) in

2025? was signed by king John of England as a foundational documents which is considered a cornerstone of democracy protecting individual rights and limiting government power. The Magna centa established principles protecting the church, all freemen and their rights and restricted the monarch's authority ensuring due process and fair trails. The Magna canta documents shaped constitutional law, influencing documents like the United States constitutions. This dissertation recommends that the developing Nations especially Nigerian State to domesticate in their constitution, the restrictions of the government against the fundamental Human rights and projections of its citizens and not a mere decoration of a document tagged constitutions. The laws embedded into these constitutions should as a matter of fact be a state policy in the contribution to the promotion of Human Rights and to ultimately, harmonize international law in our domestic legal framework.

Developing Nations must shoulder the main responsibility for making jus cogens principles and the international law work to the advantage of their citizens. Every government should swear to an oath of allegiance through our deities and various shrines before they will be allowed to administer and operate the governance. This recommendation if followed and probably passed through our legislations and domesticated into law will practically give room for good governance because the latent views in jus cogens norms as a Natural principles encompasses our mediums of reaching the ultimate as these various deities and shrines are established by the INVISIBLE BEINGS that propels Natural Laws and course of unity of purpose of the Natural law and beingness to be to the overall good of all people.

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