IMPLICATIONS OF GLOBALISATION AND REGIONAL INTEGRATION ON NATIONAL SOVEREGNTY: THE NIGERIAN EXPERIENCE*

Abstract

The 21st Century has presented a myriad of challenges to the world including pandemic, terrorism, economic meltdown, poverty, unemployment and demands from citizens of various countries such as better living conditions and respect for human rights. These challenges have prompted a change in global governance trends. It has become evident that a state can no longer exist in isolation; there is a greater demand and advantage in entering into regional or international agreements in order to be able to survive in an increasingly interdependent world. However states are faced with a dilemma as to how far they have to shed their ability to control and dictate the internal affairs of their countries in favour of the international agreements that they have voluntarily entered into. Current global trends seem to have compelled developing countries like Nigeria to adopt all forms of political, economic, social and legal incentives and devices in the quest for survival. The inevitable sacrifice for the desired economic development appears to be a certain degree of erosion or surrender of the country's sovereignty in favour of external forces. It is against the foregoing background that this work critically examines the implications of globalisation and regional integration on the nation's sovereignty. The work found that globalisation and regional integration is a product of state sovereignty as states cannot have any obligation to any treaty or convention unless they have signed or ratified same. It was also found that while Nigeria is a member of many international and regional bodies and seems to embrace the idea of globalisation and regional integration, it does not have the requisite legal regime to effectively comply with the demands of those regional bodies. In response, the work recommends an improved legal regime through constitutional amendment or improved implementation mechanisms.

Keywords: Globalisation, Regional Integration, National Sovereignty, Implications, Nigeria

1. Introduction

Despite the existence of other personalities in international law, states are the primary and most developed subjects of international law. The basic reason for this position is, of course, that the world is today organized on the basis of the co-existence of States and the fundamental changes will take place only through State action, whether affirmative or negative.[1] States are the repositories of legitimate authority over peoples and territories. It is only in terms of state powers; prerogatives, jurisdictional limits and law making capacities that territorial limit and jurisdictional responsibility for official actions, and a host of other questions of co-existences between nations can be determined.[2] One of the elements of statehood is government i.e. the organ having repository of political power, and exercising effective and exclusive authority over the territory and its population. Internally, the existence of a government implies the capacity to establish and maintain an effective and exclusive administration and a legal order in the sense of constitutional autonomy. Externally, it means the ability to act autonomously on the international level without being legally dependent on other states within the international legal order. This purports independence and sovereignty. Since all states are sovereign, and therefore equal in their sovereignty, which implies the absence of subordination in their relations, the conception of sovereignty as absolute power is unrealistic and unrealizable. According to the eminent jurist, Professor Charles Rousseau, absolute sovereignty can only exist in isolation and not in inter relations. In succinct pontification of this view, he declares thus: 'The claim according to which sovereignty is an absolute power is again contradicted by the institution of international responsibility. Sovereignty and responsibility are two antithetical notions and mutually exclusive'[3].

The term 'Sovereignty', evokes such spontaneous thoughts as jurisdiction, rule, supremacy, dominion, ascendancy, authority, hegemony, and control. These terms, all thought of within the context of a nation state, denote ability of a state to govern and direct what goes on within its territory. Sovereignty in political theory is the ultimate overseer, or authority, in the decision-making process of the state and in the maintenance of order. The concept of sovereignty is one of the most controversial ideas in political science and international law and is closely related to the difficult concepts of state and government and of independence and democracy[4].

The 21st Century has presented a myriad of challenges to the world including pandemic terrorism, economic meltdown, poverty, unemployment and demands from the governed such as better living conditions and respect for human rights. These challenges have prompted a new approach in global governance trends. Thus the world is becoming more integrated

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[1]W Friedman, *The Changing Structure of International Law,* (US: University Presses of California, 1964), 213 quoted in I Brownlie, *Principles of Public International Law,* (UK Oxford University Press, 1990) p. 58

[2]MVC Ozioko, 'Laws and Policies for the Promotion of Foreign Investment in Nigeria: Implications for the Nation's Economic Sovereignty' Being the text of a dissertation submitted to the Faculty of Law, Nnamdi Azikiwe University, Awka in partial fulfilment of the requirement for the award of PhD in Law, May, 2018.

[3]C Rousseau, *Le Droit Internationale Public, Tome II, les Sujets de Droit*, (Siry, Paris 1994) p. 61 quoted in B O Okere 'State Responsibility' (Mimeograph Lecture, Faculty of Law, UNEC).

[4] Encyclopedia Britannica, <https://www.britannica.com/topic/sovereignty> Accessed 14/11/16.

and interdependent in a bid to find how the international community can collectively respond to pressing global problems. It has become evident that a state can no longer exist in isolation; there is a greater demand and advantage in entering into regional or international agreements in order to be able to survive in an increasingly interdependent world. However states are faced with a dilemma as to how far they have to shed their ability to control and dictate the internal affairs of their countries in favour of the international agreements that they have voluntarily entered into. Current global trends seemed to have compelled developing countries like Nigeria to adopt all forms of political, economic, social and legal incentives and devices for survival. It is believed that the inevitable sacrifice for the desired economic development through foreign aids and investment, be it political, economic or social, appears to be a certain degree of erosion or surrender of the country's sovereignty in favour of external forces. Thus there is a need to find a balance between the need for a state maintaining its sovereignty and the need for cooperative alliances with other state. It is against the foregoing background that this work critically examines the implications of globalisation and regional integration on the sovereignty of states especially as it relates to Nigeria.

2. The Concept of Sovereignty

The concept of sovereignty has been the basis for international law theory and practice and generally recognized as a legal principle and a cornerstone of international relations.[5] It has also been the legal instrument aiming to protect independency of all the states, especially the less developed, in the context of their economic and political non-equality. The key word for sovereignty in international relations has been 'independency'. Historically, the concept of sovereignty appears to be as old as creation. From the point of view of Christianity, as indeed for most other religions, sovereignty resides in the creator.[6] By His Omniscience and Omnipotence, God wields both power and authority to which two concepts man must submit in his material existence.[7] The word 'sovereignty' is in turn by etymological account derived from the old French word *soverainete* which itself is derived from the medieval Latin word *supremitas* or *suprema potestas* meaning 'Supreme Power'.[8] This fundamental element of supreme power emerges, from available literatures as the core of every normative approach to analysing the meaning of sovereignty. This is vividly captured in the definition of sovereignty as 'a theory of politics that deals with an ultimate overseer, or authority in the decision-making process of the state and that explains the rules of maintaining orders....'[9]

Sovereignty is the central attribute of the state as a form of political organization. Sovereignty and statehood have become so closely interlinked that a non-sovereign state tends to be regarded as only a quasi-state.[10] Sovereignty signifies simultaneously a right to act and a power to act. Sovereignty manifests itself in different forms, and this largely accounts for the varying definitions that are given of it. Seen from one angle, it is akin to the right and power of possession or ownership of a portion of the earth's surface. Sovereignty can also be defined more narrowly as the 'right and power to make the ultimate or final decision about the terms of existence of a whole territorially-based body politic.'[11] It denotes a central core of right and power which may be called the right and power of self-determination, that is, a right and power to determine for and by oneself—and not at the command of others—the fundamental issues relating to one's existence. No external body has the right to command or order a sovereign state to act in a given way about matters of fundamental concern to it.[12] The modern theory of sovereignty arose from the reaction of European states to the doctrine of the Holy Roman Empire (created in 962 A.D) according to which the Emperor was superior to all governments, monarchies or republics of the Christian countries. This reaction was also directed against the doctrine of the superiority of the Pope over all Christian rulers. In addition to the reaction against these two external factors, the theory of state sovereignty was also designed to combat, internally, the fissiparous tendencies and centrifugal forces of feudal barons.[13] It has been contended that the meaning of the concept of sovereignty is largely contingent upon the context in which it features, thus, there is no objective concept that is universally applicable and yet it is of foundational importance to the concept of a state and indeed of modern political knowledge.[14]

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[5] N Tyurina, 'Regional Economic Integration and State Sovereignty' (2014) *Intereulaweast* Vol. I (1)

[6] *New Catholic Encyclopedia* (New York: McGraw Hill, 1967) p. 487 cited in C A Ogbuagu & E L Okiche; 'Sovereignty: Emerging Issue' Being the Text of a Paper Presented at the 41st Annual Conference of the Nigerian Association of Law Teachers, Jos, June 2005, p. 1.

[7] C A Ogbuagu & E L Okiche; 'Sovereignty: Emerging Issue' Being the Text of a Paper Presented at the 41st Annual Conference of the Nigerian Association of Law Teachers, Jos, June 2005, p. 1..

[8] *Ibid.*

[9] *Encyclopedia Britanica* (Vol. 17, United States: Benton Publisher, 1975) p. 309, cited in C A Ogbuabor & E L Okiche, *op cit*.

[10] M.V.C. Ozioko, op cit. p.27

[11] Ibid.

[12] Ibid.

[13] E A Oji and MVC Ozioko, 'Effect of Globalisation on Sovereignty of States' (2011) *Journal of International Law and Jurisprudence Vol 2*, p. 5.

[14] D Saroochi, 'Sovereignty, Economic autonomy, the United States, and the International Trading System: Representations of a Relationship', (2004) *EJIL* Vol. 15 No. 4, 651-676.

Krasner, [15] in his contribution, recognized that the term sovereignty is not an organic whole but has many components. According to him, having one component does not necessarily mean having the other. He categorises how sovereignty has been used into four, to wit: domestic sovereignty; interdependence sovereignty; international legal sovereignty; and Westphalian sovereignty. Domestic sovereignty refers 'to the nature of domestic authority structures' and the effective level of control they wield within a state's borders. Interdependence sovereignty, on the other hand, describes a state's ability to control trans-border movements. International legal sovereignty refers to the process of mutual recognition. Perhaps the most significant use of the term sovereignty for this analysis is the notion of Westphalian sovereignty, which entails 'the exclusion of external actors from domestic authority configurations' i.e. autonomy. Interventionist practices are generally seen to violate the non-intervention norm associated with Westphalian sovereignty, as well as international legal sovereignty. It is important to note that the various kinds of sovereignty may be exercised by a state either severally or jointly – 'a state can have one but not the other'[16].

The essential features of sovereignty as can be gleaned from the above are *viz:*

(a) Exclusive state power in discharging the functions specific to the state;
(b) Indivisibility – that is, full freedom of choice in using the whole set of prerogative of state power and
(c) Inalienability - which connotes the impossibility of ceding power either to some foreign power or to some international body.[17]

3. Globalization and Regional Integration

We had lived in a world of essentially unchallenged sovereignty for several generations now, and had begun to think of it as the natural state of affairs. However, the idea of states as autonomous, independent entities is collapsing under the combined onslaught of monetary unions, global television, the Internet, governmental and non-governmental organizations. Membership to an international organization has tremendous impact on the sovereignty of states. This can be appreciated from four sides. The activities of international organizations can have quasi- legislative, Administrative and Supervisory, as well as Jurisdictional effects. This hinders the freedom of member states to act as they please. Transnational non-governmental organizations (NGOs) have much influence over state activities. Throughout the 19th century, there were transnational movements to abolish slavery, promote the rights of women, and improve conditions for workers. The number of transnational NGOs, however, has grown tremendously, from around 200 in 1909 to over 17,000.[18] The availability of inexpensive and very fast communications technology has made it easier for such groups to organize and make an impact on public policy and international law. Such groups prompt questions about sovereignty because they appear to threaten the integrity of domestic decision-making. Activists who lose on their home territory can pressure foreign governments, which may in turn influence decision makers in the activists' own nation[19].

Globalisation

Globalization is the term used to describe one of the most contemporary phenomena of our time; involving the diffusion of ideas, practices and technologies through the various now available means of communication and interaction. It has led to internationalization of most issues in human and state existence. The definition by Anthony Giddens[20] aptly describes this phenomenon: 'the intensification of worldwide social relations which link distant localities in such a way that local happenings are shaped by events occurring many miles away and vice versa'. This involves a change in the way we understand geography and experience localness. As well as offering opportunity, it brings with it considerable risks linked, for example, to technological change. Globalization, thus, has powerful economic, political, cultural and social implications for sovereignty. Technological changes over the last 200 years have increased the flow of people, goods, capital, and ideas. The response of states to globalization and its impact on their sovereignty is nothing compared to what followed the invention of the printing press. Despite the perceived impacts of globalization on sovereignty of states, states appear to be stronger and more able to address internal problems and no leader has lost its state yet to globalization.[21] One thing is certain; globalization is changing the scope of State control. The reach of the State has increased in some areas and contracted in others. We now see the erosion of national citizenship – the notion that an individual should be a citizen of one and only one country, and that the state has exclusive claims to that person's loyalty. Treaty is one of the sources of international obligation. It is a basic norm of law that one cannot derive rights and liabilities from a treaty to which he is not party. However, contemporary international law now envisages situations where rights and liabilities are created for states without their being party to such transaction. According to Krasner,[22] Sovereignty was never quite as vibrant as many

[15]S D Krasner, *Problematic Soverignty: Contested Rules and Political Possibilities,* (New York: Columbia University Press, 2001) *pp. 6–12.* <https://books.google.com.ng/books?id=ISqwQIBQff4C&lpg=PA7&pg =PA7&redir_esc=y#v=onepage &q&f=false> Accessed 15/4/23.

[16]M Bolt, 'The Changing Face of Sovereignty', *E-International Relations Students,*< http://www.e-ir.info/2013/10/17/the-changing-nature-of-sovereignty/> Accessed 15/4/2023

[17]S Nastasescu, *Suveranitatea si Dinamica Relatiilor International [Sovereignty and the Dynamics of International Relation])* (Bucharest: Political Publishing House, 1976) p. 22-23.

[18] S D Krasner, *op cit*, p.5.

[19] E A Oji and M V C Ozioko, *op cit.*

[20] A Giddens, *The Consequences of Modernity,* (Stanford: Stanford University Press, 1990) p. 64.

[21] MVC Ozioko, *op cit*.

[22]D Krasner, 'Sovereignty, Foreign Policy' < http://www.globalpolicy.org/nations/ realism.htm> Accessed 15/04/2023

contemporary observers suggest. The conventional norms of sovereignty have always been challenged. A few states notably the United States, have had autonomy, control, and recognition for most of their existence, but most others have not. The polities of many weaker states have been persistently penetrated, and stronger nations have not been immune to external influence.

Governments and activists alike complain that multilateral institutions such as the United Nations, the World Trade Organization, and the International Monetary Fund overstep their authority by promoting universal standards for everything, which in turn alter the scope of state authority.[23] Globalization has ensured that the old distinctions between international and domestic policies are becoming increasingly irrelevant.[24] Smith and Baylis conceive of globalization as 'the process of increasing inter connectedness between societies such that events in one part of the world more and more have effects on peoples and societies far away.[25] Karky could not have stated the position better when he stated that, 'it is hard to get a single definition of globalization.' [26] The International Labour Organization defines globalization as a process of growing interdependence between all people of this planet. According to them, people are linked together economically and socially by trade, investments and governance. These links are spurred by market liberalization and information, communication and transportation technologies. In fact, global economy was in existence since the 16th century, based on the development of international trade, foreign direct investment and migration.[27] We concede to the suggestion of Kudrle that in defining globalization, it should be considered with regard to the specific intent of those using the term.[28]

Since we are considering the political effect of globalization, we shall define globalization as the expansion and intensification of international political and economic intercourse. There is no gainsaying the fact that economic and political independence and interdependence are interrelated. Many have asserted that globalization benefits everyone. Despite these assertions, the overwhelming majority of regional integration still occur between the world's richest nations. Even within the developing world, it is still the stronger nations that receive the bulk of the benefits.

Regional Integration

Regional integration also called regional cooperation is a process in which neighbouring states enter into an agreement in order to upgrade integration through common institutions and rules. Regional integration is also known as the process by which two or more nation-states agree to cooperate and work closely together to achieve peace, stability and wealth.[29] Closely related to the idea of regional integration is a supra-national entity. A supra- national entity has been described as a 'super -State or supra -national authority with commensurate powers, able to enforce conformity' on its members.[30] There are some examples of regional integration that has been established for years. According to Walter Mattli,[31] the first major voluntary regional integration initiatives appeared in the nineteenth century. In 1828, for example, Prussia established a customs union with Hesse-Darmstadt. This was followed successively by the Bavaria Wuttemberg customs Union, and etc. Half a century later, the idea of European integration was re-invented and the process of merging European nation-states into one prosperous economy and stable polity began. The first step was taken with the creation of the European Coal and Steel Coummunity (ECSC) in 1952. In 1957, Germany, France, Italy, Belgium, Luxemburg, and the Netherlands signed the Treaty of Rome establishing the European Community (EC). These organizations are usually created by the member states for the following aims or purposes: (1) accelerating the economic growth, social progress and cultural development in the region through joint endeavours in the spirit of equality and partnership in order to strengthen the foundation for a prosperous and peaceful community (2) promoting regional peace and stability through abiding or everlasting respect for justice and the rule of law in the relationship among countries in the region.

The Economic Community of West African States for instance was conceived as a supranational entity, a Community made up of 16 Member States. The ECOWAS Treaty, after a chequered history, was signed in Lagos on May 28th 1975 by 11 Heads of State and four plenipotentiaries, representing 15 West African countries.[32] Article 2 of the Treaty States that 'It shall be the aim of the community to promote integration and development in all fields of economic activity, for

[23] E A OJI & MVC Ozioko, *op cit*.

[24]G Nzeken, 'Contemporary Experiences in Globalization' in *Globalization and Nigeria's Economic Development* Proceedings of the one-day seminar held at the N.I.I.A Lagos, February 11, 1999, p. 30

[25]S Smith & J Baylis, *The Globalisation of World Politics: An introduction to international Relations* (2nd edn, New York: Oxford University Press, 2001)

[26]R B. Karky, Globalization and Least Developed Countries, in CC Nweze (ed), *Contemporary Issues on Public International and Comparative Law: Essays in Honor of Professor Christian Nwachukwu Okeke* (USA: Vandeplas Publishing, 2009) p.75

[27] ILO, 'Globalisation and Workers' Rights' <http://www.ilo.org/actrav> Accessed on 05/5/2023

[28]RT Kudrle, 'Three Types of Globalization: Communication, Market and Direct', in R Vayrynen (ed.), *Globalization and Global Governance* (US: Rowman & Littlefield, 1999)

[29]P Loka, '*The Regional Integration: The Impact and Implications in Member States' Sovereignty'* <https://medium.com/pangripta-loka/the-regional-integration-the-impact-and-implications-in-member-states-sovereignty-5679ebe0990> Accessed 15/4/2023.

[30]Y Gowon, 'The Economic Community of West African States: A Study in Political and Economic Integration' (Unpublished Ph.D. Thesis, Faculty of Political Science, University of Warwick, London. 1984 p.2

[31] W Mattli, *The Logic of Regional Integration* (UK: Cambridge University Press, 1999)

[32]AB Akinyemi, SB Falegan, IA Aluko (ed), *Readings and Documents on ECOWAS (*Lagos; Nigeria Institute of International Affairs, (NIIA) Publication, 1983) p. 3

the purpose of raising the standard of living of its people's., and fostering closer relations among its members'. The Member States pledged to make every effort to plan and direct their policies with a view to creating favourable conditions for the achievement of the aims of the community and enjoined each Member State to, 'take all steps to secure the enactment of such legislation as is necessary to give effect to the treaty.'[33] In order to strengthen the Community, under Article 3 of the Revised Treaty, the Community is to, by stages ensure the harmonisation and coordination of national policies and the harmonisation of integration programmes, projects and activities, the promotion of the establishment of joint enterprises; the establishment of an economic union through the adoption of common policies in the economic, financial, social and cultural sectors, and the creation of a Monetary Union. Further, the Member States undertook to create favourable conditions for the attainment of the objectives of the Community and take necessary measures to harmonise their strategies and policies and to refrain from any action that may hinder the attainment of the Community's objectives. However, Member States are usually unwilling to make the requisite political concessions for the purpose of making the organisation to function properly.[34] This raises the logical question whether a supranational organization really has authority to force States to respect its protocols.

The achievement of the goals of regional integration requires the constant support and commitment of the Member States of the Community.[35] Member States are therefore urged to ensure the speedy ratification, domestication (where necessary) and effective implementation of all outstanding protocols relating to the regional integration process. To achieve this, States should be more committed to the treaties to which they are parties by loosening their tight hold on their sovereignty and cooperate with the other member state and the supranational body to make the integration work.[36] Regional integration takes many forms. It may be in form of a political and economic union whereby countries coordinate aspects of their economic and political systems or free trade area whereby group of countries are committed to removing all barriers to the free flow of goods and services between each other but pursue independent external trade policies. It may also be in form of customs union that combines features of free trade area with common trade policies toward non-member countries or common market whereby members move forward to establish not only free trade in goods and services but also free movement of factors of production. It may also be in form of an economic union whereby a group of countries are committed to removing trade barriers, adopting a common currency, harmonizing tax rates, and pursuing a common external trade policy.[37]

4. Globalisation and Regional Integration: Implications for National Sovereignty

Belonging to an international institution like the ECOWAS, AU, the EU, etc. is presently viewed as being inconsistent with conventional sovereignty rules. Member states have created supranational institutions that can make decisions opposed by some member states. For instance, the ruling of an international court may have direct effect and supremacy within national judicial systems of the nations that are subject to the international court, even though these doctrines were never explicitly endorsed in any treaty. In one sense, these institutions are products of state sovereignty because they were created through voluntary agreements among its member states. But, in another sense, it fundamentally contradicts conventional understandings of sovereignty because these same agreements have undermined the juridical autonomy of its individual members. Zhongying warns any country opening their economy to the outside world that it is by no means a free lunch as the policy will inevitably come at a cost.[38] The cost can be perceived to be a weakening of the nation's 'economic sovereignty', namely the erosion of permanent and exclusive privileges over its economic activities, wealth, and natural resources.

The creation of domestic capital for instance can be assisted by regional initiative to create regional insurance agencies. This could be done under the auspices of regional economic groups like the African Union, ECOWAS, etc and in partnership with African countries. This is because, most times, home governments of potential investors do not have the capability to act alone. A review of the world's history will find that it is common that the economic sovereignty of an individual member is from time to time influenced by global economic trends.[39] The increase in the number of international organizations and the expansion of their functions has undeniably restricted an individual country's sovereignty to certain extent.[40] Thus, government, at all times ought to strive to strike a balance between the need for regional integration and the need to protect its political and economic sovereignty. One of the ways of achieving the foregoing is through the State assuming commanding height in the economic sphere of its activities and avoiding subscribing to policies that will affect

[33] Art.3

[34]M P Okom , 'Sovereignty Versus Supranationality: The ECOWAS Conundrum' (2016) *European Scientific Journal vol.12, No 23* p. 295

[35]A Oluyemi, 'The Footprints of Nigeria's Integration Programmes in Africa's Development*',* Ministry of Cooperation and Integration in Africa (MCIA), Publication on 'The Challenges of Cooperation and Integration in the 21st Century', Edited by the Department of Planning, Research and Statistics, July, 2005. p. 10

[36] MP Okom, *op cit.*

[37]https://quizlet.com/61542244/list-the-5-stages-of-regional-integration-and-describe-how-each-stage-further-liberalized-trade-flash-cards/

[38] P Zhongying, 'Globalisation v. Economic Sovereignty', China Daily, 2 December 2005

[39] *Ibid*.

[40]A Madupin, 'Privatisation in Nigeria: A Tentative Assessment' (2002) *Journal of Economic, Social and Cultural Rights Vol. 1 (5),* p. 79.

its sovereignty. In the age before Globalization, the sovereignty of the modern state was constituted in mutually exclusive territories and the concentration of sovereignty in nations. In the developing globalization and regional integration, it is important to know about the impact of Regional Integration Agreement for the countries' autonomy in order to maintain their existence and sovereignty. By using their power or utilizing resources they have, to compete with other countries. Schiff[41] stated some reasons why a country may make agreement with other country in a region.

(i) Governments' wish to bind themselves to better policies, including democracy and to signal such bindings to domestic and foreign investors.

(ii) A desire to obtain more secure access to major markets.

(iii) The pressures of globalization, forcing firms and countries to seek efficiency through larger markets, increased competition, and access to foreign technologies and investment.

(iv) Governments' desire to maintain sovereignty by pooling it with others in areas of economic management where most nation-states are too small to act alone.

(v) A desire to jog the multilateral system into faster and deeper action in selected areas.

(vi) A desire to help neighbouring countries stabilize and prosper.

Joining a Regional Integration Agreement (RIA) necessarily requires surrendering some immediate control over policymaking and losing some political autonomy. Some regional integration, however, go deeper than that and create institutions for joint decision making.[42] By pooling sovereignty, members of a Regional Integration Agreement may be able to preserve and enlarge it and thus strengthen themselves by creating a united front against external pressures or by joining forces in international negotiation.[43] Besides that, regional integration can strengthen the voices of all small nations. These countries often face severe disadvantages in dealing with the rest of the world because of their low bargaining power and high negotiation costs.[44] The regional integration also can affect the economic development or economic growth. A country with a highest economic rate will have more power and authority than other country members. Moreover, it can increase competition in tradeable goods sector. That increased competition may induce improvements in efficiency, lower mark-ups, and a larger demand for inputs in those sectors, further increasing the relative demand for capital. Increased competition from capital goods could also stimulate the domestic capital goods industry to greater efficiency. Integration may also affect the prices of capital goods. Lower tariffs and trading costs on imports of capital equipment may reduce the price of investment goods, raising the rates of return and accumulation. It must however be observed that the above argument notwithstanding, since it is a State's prerogative to decide whether or not to be part of an international or regional body, whatever obligation it acquires by virtue of such an association is a product of exercising its sovereignty and cannot be seen as mitigating its sovereignty.

5. Nigeria and Regional Co-operation

Nigeria has been a very active member of the international community since gaining independence and joining the United Nations in October 1960. Like other third world and developing countries, Nigerian leaders at independence declared unequivocally the country's belief and commitment to the international system built around the United Nations and other regional bodies.[45] Successive leaders and governments have maintained this position. Thus, Nigeria has remained active within the international system and demonstrated commitment to and acceptance of the international political and legal system embodied in various universal and multilateral treaties and conventions instituted under the aegis of the United Nations and other regional bodies. However, beyond the country's apparent enthusiasm and commitment to participate in international treaties, there is the question whether Nigeria is indeed capable of effectively interpreting, domesticating, and implementing international treaties guiding these regional bodies that the country contracts or accedes to. Another question that also arises is whether behind the façade of the enthusiasm to accept and be party to numerous international bodies, the Nigerian state is willing to implement the obligations and standards enshrined in the treaties regulating them. While it could be said that Nigeria generally fulfils its treaty obligations in good faith, there are specific cases or subject matters in which the country's posture seems to suggest that it either lacks the capacity to and implement the requirements of those treaties, or it is unwilling to do so because of certain constraints and/or interests. In certain cases, the country has altogether refused to be a party to such treaties and conventions, even though they relate to matters that are crucial to the social-economic and physical well-being of the country and its people. This part of the work examines the reasons and explanations for this trend which contradicts the avowed foreign policy posture of the country as a compliant and progressive member of the international community. Regional integration essentially involves adhering to state practices, rules and conventions that have been accepted by states and other subjects of international law to regulate their relations and interactions and govern their rights and duties within the international system. Essentially, it could be said that treaties and conventions constitute the major source of international law and forms the basis for regional integration. This fact is reflected in the adoption of

[41]MW Schiff, *Regional integration and development,* (Washington DC; The World Bank, 2003) <https://books.google.co.id/books?hl=id&lr=&id=WG0zhlzEib8C&oi=fnd&pg=PR11&dq=regional+integration+and+sovereignty&ots=CUMain6NWu&sig=3OQWyzE0opq3xYXfZ1G4op0Ne9s&redir_esc=y#v=onepage&q&f=false> Accessed 7/4/2023.

[42] P Loka, *op cit.*

[43]W Mattli, *op cit*.

[44] *Ibid*.

[45]A Ahmed-Hameed, 'The Challenges of Implementing International Treaties in Third World Countries: The Case of Maritime and Environmental Treaties Implementation in Nigeria' (2016) Vol. 50 *Journal of Law, Policy and Globalization*

the Vienna Convention on the Law of Treaties in 1969 by the international community, to provide the framework that will govern the making and operation of international treaties and conventions. Subsequently, the Vienna Convention on Succession of States in Respect of Treaties and the Vienna Convention on the Law of Treaties between States and International Organizations or Between International Organizations were also adopted in 1978 and 1986 respectively. These conventions embody comprehensive principles and rules upon which international treaties are concluded between and among states and other international personalities. In this regard, Article 26 of the Vienna Convention on the Law of Treaties of 1969 contains the core principle of *pacta sunt servanda*, which established the duty of states to perform their obligations under treaties. While the Vienna Convention on the Law of Treaties of 1969 and other relevant rules of customary international law recognize the rights of states and permit them to choose freely to become or not to become a party to a treaty, once a state becomes a party to a treaty and thereby assumes obligations under the treaty, such a state is bound to observe and discharge such obligations.

Similarly, state parties to a treaty also have the duty not to breach the obligations under the treaty and not to work against the spirit of the treaty. Indeed, Article 18 of the Vienna Convention on the Law of Treaties of 1969 provides that every treaty in force is binding upon the parties to it and must be performed in good faith, and the state parties are also under the obligation to refrain from acts, which could defeat the object and purpose of a treaty that they have freely signed or expressed consent to be bound by. The question that arises apart from the capacity to implement and enforce treaty obligations and standards is whether the Nigerian state is willing to implement and enforce those standards and requirements. This second question is relevant in view of the fact that the willingness to meet those treaty standards and requirements may be challenged by certain political, economic and private interests of powerful groups and actors within the system.

In discussing the above issue, it is pertinent to observe from the outset that treaties between Nigeria and other subjects of international law do not transform into domestic laws unless they are specifically domesticated, that is, enacted into laws by the National Assembly. Nigeria adheres to a dualist approach to application of international law, a practice which is common in common law countries.[46] Thus, treaties validly concluded between Nigeria and other subjects of international law do not automatically transform into Nigerian laws without legislative intervention – they must be specifically enacted into law by the National Assembly in accordance with section 12 of the Constitution of the Federal Republic of Nigeria, 1999, as amended. Section 12 of the 1999 Constitution of Nigeria provides that:

> (i) No treaty between the Federation and any other country shall have force of law except to the extent to which any such treaty has been enacted into law by the National Assembly.
> (ii) The National Assembly may make laws for the Federation or any part thereof with respect to matters not included in the Exclusive Legislative List for the purpose of implementing a treaty.

This section makes it very clear that the National Assembly is the only legitimate organ of government that is responsible for implementing treaties in Nigeria. The logic behind this provision is not far-fetched: the National Assembly is the only entity empowered by the Constitution to make laws on behalf of the federal Government. Of course, it would amount to usurpation of the legislative powers of the National Assembly if a treaty that is made by the executive is allowed to have the force of law in Nigeria without the intervention of the National Assembly. Thus, the signing of a treaty by the Executive cannot promulgate law. What therefore is the implication of the foregoing in light of the well-known principle of international law of treaties that a state cannot be bound by any agreement to which it has not given its consent—either by signing, ratification, accession or any other means of declaration of intent to be bound?[47] Besides, most treaties are not self-executing and as such, parties to them are usually enjoined to institute municipal measures to guarantee the application of such treaties within their domestic systems.[48] The implication of the provisions of section 12 of the 1999 Constitution is simply that while on the international pedestal, Nigeria may be bound by any treaty they have ratified; the citizens of Nigeria may not derive the benefits accruing from such treaties. Thus, treaties entered into by Nigeria will not become binding on her in favour of her citizens until the same have been passed into law by the National Assembly.[49] It must be observed however that the Constitution of the Federal Republic of Nigeria (Third Alteration) Act, 2010, appears to have removed labour related treaties from the restriction contained in section 12 of the Constitution. This is so because this Act appears to have made ratified but undomesticated labour related treaties justiciable in Nigeria without any legislative intervention. Treaty is an international agreement concluded between states in written form and governed by international law. It includes any international agreement concluded between one or more states and one or more international organisations which is in written form and governed by international law.[50] According to the Treaties Act, a treaty means

[46]C A Okenwa, 'Has the Controversy between the Superiority of International Law and Municipal Law been Resolved in Theory and Practice?' (2015) *Journal of Law, Policy and Globalization*, Vol.35, p. 116.
[47]Except where such agreements are mere declarations of existing norms of customary international law.
[48]See HJ Steiner & P Alston, *International Human Rights in Context: Law, Politics, and Morals* (United Kingdom: Clarendon Press, 1996).
[49] *Abacha v Fawehinmi*, [2000] 6 NWLR 228 (Nigeria).
[50]Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations, 1986, Art. 1 (a).

any instrument by which an obligation under international law is undertaken between Nigeria and any other country.[51] The framers of this Act seem to have glossed over the fact that under the contemporary international law, both states and international organisations have the capacity to enter into treaties as evident in the 1986 Vienna Convention on the Law of Treaties. The Treaties Act should, therefore, be amended in order to reflect the current position of international law in relation to treaty-making by providing in clear terms that international organisations may enter into treaties with Nigeria.

6. Conclusion and Recommendations

Traditionally, sovereignty used to mean final authority. However, in the contemporary world, sovereignty primarily is linked with the idea that states are autonomous and independent from each other. It further means that within their own boundaries, the members of a polity are free to choose their own form of government. Thus, no state has the right to intervene in the internal affairs of another state. Sovereignty is also associated with the idea of control over trans-border movements. Finally, sovereignty also means that political authorities can enter into international agreements. States are free to endorse any contract they find attractive. Any treaty among states is legitimate provided that it has not been coerced. This is the new strength of sovereignty. Thus, sovereignty and its import have changed over the past century. It is under this premise that various laws and policies made for the promotion of regional integration or supra-nationalism, naturally affect economic sovereignty. However, the question is, if regional integration is predicated on the right of a state to determine its affairs or rather, an expression of such powers; can it be said that it limits the state's sovereignty? Supra-nationalism or regional integration proves to be the result of direct consent, expressly revealed by the member-states, getting into agreement about integration in such an institution and therefore it does not generally contradict the main ideas of sovereignty. State sovereignty has not exhausted itself as an inherent attribute of a state or the concept of international law. The ideas of 'equality of nations', i.e. *par in parem non habet imperium* and 'sovereign immunity' as the legal contents of state sovereignty remain fundamental for international law system and the attempts to deny them may result in a threat for international legal order.

It is upon the above premises that we conclude that while regional integration and supra-nationalism may seem to limit sovereignty, they are in fact an expression of sovereignty. It is our opinion that, in view of the fact that Nigeria's obligation in the various international or regional bodies is subject to the ratification of the treaties embodying such obligation, it will be safe to also conclude that her sovereignty is minimally affected by regional integration. While Nigeria is a member of many regional bodies and seems to embrace the idea of globalisation and regional integration, it does not have the requisite legal regime to effectively comply with the demands of those regional bodies. This conclusion is predicated on the fact that section 12 of the Constitution precludes the applicability of the treaties that may result from these alliances. What is more, in most cases, Nigeria has usually not really taken steps to domesticate these laws. In view of the foregoing, it is recommended that Nigeria should take reasonable steps to domesticate the international treaties and conventions it has ratified or in the alternative the Constitution should be amended to provide the applicability of international treaties and conventions which Nigeria has ratified. It is also recommended that the he Treaties Act should, also, be amended to provide in clear terms that international organisations may enter into treaties with Nigeria

[51] Treaties (Making Procedure, Etc.) Act, Cap. T20, LFN, 2004, s. 3 (3).