LEGAL PERSONALITY OF THE SUBJECTS OF INTERNATIONAL LAW*

Abstract
Under international law, the only entities hitherto considered as subjects of international law and having international personality are states. With modern changes in international law and increase in activities among states, the need to recognise the personality of other non-state entities such corporations, international organizations, Non-Governmental Organizations and individuals became a thing of concern. Thus, some form of partial or limited legal personality has been accorded to these entities but states still stand as the major subjects of international law with full legal personality. This manuscript demystified the extent of the legal personality of subjects of international law as its major objective. The doctrinal research method was adopted and the data collected were both primary and secondary comprising of both hard copies and online source materials. It was discovered that the only entity with full international legal personality is a state, other non-state actors have only limited personality. It is recommended that more treaties and agreements need to be entered into and signed by states to ensure that the scope of the legal personality of other non-state entities is expanded to accommodate recent developments at the global scene.

Keywords: Subjects of international law, legal personality, international law, and rights and privileges

1. Introduction

Traditionally, international law has recognised sovereign states as the only legal persons. International legal personality has generally been understood as a legal status denoting the ability of entities, usually states, to act as subjects exercising rights and bearing duties within the international legal order.[1] The possession of personality in this sense can be regarded as equivalent to membership in the international community. Actors need this status to deal effectively and meaningfully with other members of the international club.[2] The phrase 'subjects of international law' refers to entities endowed with legal personality, capable of exercising certain rights and duties on their own account under the international legal system.[3] A subject can maintain its rights by bringing international claims and can equally be responsible for breaches of obligation by being subjected to such claims.[4] International legal personality is an important facet of international law that has developed throughout history as a means of international representation. With the acquirement of personality come privileges and responsibilities. Personality has been given to states, corporations, non-governmental organizations, international organizations, and individuals,[5] who in turn are referred to as 'subjects of international law'. International law simply refers to rules made by states to govern states and their relationships with one another.[6]

2. Subjects of International Law

Theories of Subjects of International Law

The difference of opinion among jurists as to what entities are deemed to be the subjects of international law had led to the emergence of three popular theories. The sum-up of these theories can be summarized as Realist theory, Fictional theory, and Functional Theory.

*** By Eric Chigozie IBE,** Secretary, Nigerian Bar Association, Abuja Branch (Unity Bar), Suite B-59, Efab Mall, Off Ahmadu Bello Way, Area 11 Garki, Abuja. Email: *ericibe.c@gmail.com*. Phone No: 08161304100.

[1] R Mushkat, *One Country, Two International Legal Personalities* (1997) 1.

[2] C Eric, The Power of International Legal Personality in Regional Integration (UNU-CRIS Working Papers W-2010/4).

[3] Law Tycoon, Subjects of International Law (Lawtycoon.com, 2019) 1 <https://www.lawtycoon.com/subjects-of-international-law/9454719> accessed on 23rd November, 2020.

[4] Law Explorers, Subjects of International Law (Lawexplorers.com 2018) 1 <https://www.lawexplorers.com/subjects-of-international-law/> accessed on 23rd November, 2020.

[5] Wikipedia, International Legal Personality (Wikipedia 2020) 1 <https://en.wikipedia.org/wiki/International_legal_personality> accessed on 23rd November, 2020.

[6] Ibid.

Realist Theory

According to the orthodox positivist doctrine, states are the only subjects of international law, and the law of nations is primarily a law of international conduct of states and not of their citizens. If individuals have any right then it can be claimed only through the states. The Jurists of this school believes that the states are the subjects of international law, while individuals are the objects of international law.[7] However, this theory is silent on the rights of the individuals and the international offences for which individuals may be punished. In *Reparation for Injuries Suffered in the Services of the UN* case, the ICJ held that 'the UN has the capacity to bring an international claim against the State for obtaining reparation when an agent of UN suffers injury'.

Fictional Theory

Under this theory, Jurists believe that Individuals are the only subjects of international law as states do not have soul or capacity to form an autonomous will. They opined that the laws ultimately apply to the individuals and are for the individuals alone. As per this theory, the welfare of an individual is the ultimate goal of international law.[8] Lauterpacht also opined that the claim of the states to unqualified exclusiveness in the field of international relations was tolerable at a time when the interdependence of the interest of the individual cutting across national frontiers was less obvious than they are today. However, the primary concern of International law is the rights and duties of the states. Individuals possess many rights under international law but their capacity to enforce these rights is limited. In most cases, a state files claims for the rights of the citizens. In *Mavrommatis Palestine Concession* case,[9] the PCIJ observed that 'It is an elementary principle of international law that a state is entitled to protect its subjects'.

Functional Theory

Jurists having a moderate view criticized the extreme view given by the supporters of the above theories. If the traditional view is ignoring the status of an individual completely, the modern view is trying to assert the position of individuals aggressively. Accordingly, both views need rethinking. Neither the state exists in international context without the interference of the individuals nor the personality of an individual be expanded to that of a state.[10] According to moderate jurists, state, as well as individuals and certain non-state entities, are subject to international law.[11] Entities such as International organizations, Individuals, Non-state entities, and states play an important role in the contemporary era and they all can be regarded as 'subjects of international law'. So far, this theory seems to be more consistent with the terms and situation of the present era and the relations which exist till now. So, functional theory can be regarded as the best theory in this regard.

3. Scope of Rights and Duties of Subjects

Some questions that are relevant to the study of international law include who can create international law; who has rights, duties, and powers under international law (or international legal personality); and who is regulated (governed), directly or indirectly, by international law. International legal persons – also called subjects of international law – are capable of possessing, exercising and enforcing varied degrees of rights and duties under international law. They may also contribute to the creation of international law. The rights, powers, and duties of different subjects change according to their status and functions. For instance, an individual has the right of freedom from torture under international law. States have a duty under international law not to torture individuals or to send them to a country where there is a likelihood of that person being tortured.[12] This right exists under treaty law, for example, under Covenant for Civil and Political Rights and under customary international law. The Convention

[7] Law Tycoon (n 3) 1.
[8] Law Tycoon (n 3) 1.
[9] (1934).
[10] J Garg, Subjects of International Law (Indianlegalsolution.com 2020) 3 <https://indianlegalsolution.com/subjects-of-international-law/> accessed on 23rd November, 2020.
[11] Ibid.
[12] Ruwanthikagunaratne, Who is a Subject of International Law (Ruwanthikagunaratne.wordpress.com 2011) 3 <https://ruwanthikagunaratne.wordpress.com/2011/03/26/1-2-an-introduction-to-subjects-of-international-law/> accessed on 23rd November, 2020.

against Torture and Cruel, and Inhuman and Degrading Treatment places obligations on States not to torture and to extradite or prosecute those who commit torture. Legal personality also includes the capacity to enforce one's own rights and to compel other subjects to perform their duties under international law. For example, this means that a subject of international law may be able to:

(a) Bring claims before international and national courts and tribunals to enforce their rights.
(b) Have the ability or power to come into agreements that are binding under international law (for example, treaties).
(c) Enjoy immunity from the jurisdiction of foreign courts (for example, diplomatic immunity).
(d) Be subject to obligations under international law (for instance, obligations under international humanitarian law).[13]

It is worthy of note that all subjects of international law do not have the same rights, duties and capacities. For an example, a diplomat has immunity before foreign courts because he is an agent of the sending State. One state can bring a claim against another State before the International Court of Justice (ICJ) to enforce the rights of that State or on behalf of individuals. An individual on his own cannot bring a claim against a State before the ICJ. That is, States have all the capacities mentioned above and individuals have only a few.

4. Demystifying Legal Personality under International Law

The Trajectory of Legal Personality under International Law

International law is based on rules made by states for states. States are sovereign and equal in their relations and can thus voluntarily create or accept to abide by legally binding rules, usually in the form of a treaty or convention. The capacity of states to enter into such relationships with other states and to create legally binding rules for themselves is a result of states' international legal personality, a prerogative attributed to all sovereign states.[14] In the beginning of the 18th century, sovereign states alone were considered to have international legal personality and therefore the only entities with capacity to have rights and obligations under international law. As such, states were (and still are to a large extent) the omnipotent creators of international law which in turn primarily concerned states and their conduct internationally. Individuals, International Organizations (IOs) and other Non-State Actors (NSAs) were of no concern to international law as they were devoid of international legal personality, which is a prerequisite for the capacity to have international rights and/or obligations.[15] With globalization however, international law and international relations expanded rapidly with increasing complexities: new technology made the world smaller and more interconnected, new global threats emerged that could not be fought unless with state cooperation, new players emerged at the international forum such as various IOs and NSAs. International law was greatly influenced by this development and shifts in international relations whereby states were no longer the only players on the international arena and thus not the only subjects of international law any longer.

Legal Context of International Personality

An entity which has international legal personality can be a subject of international law and then can be a regular member of international society. In international society, international legal relations are generally formed by treaties. Thus, from the legal point of view, the treaty-making power is one of the essential elements of international legal personality. In principle, only sovereign States have been qualified as entities which have full international legal personality. But as international law advances, respectively international organizations and individuals came to have limited international legal personality when they fulfil some legal conditions. It is generally accepted that whilst the treaty-making capacity varies from one organization to another, international organizations have a treaty-making

[13] Ruwanthikagunaratne (n 12) 5.
[14]Icelandic Human Rights Centre, International Legal Personality (Icelandic Human Rights Centre, 2018) 1 <https://www.humanrights.is/en/human-rights-education-project/human-rights-concepts-ideas-and-fora/human-rights-actors/international-legal-personality> accessed on 23rd November, 2020.
[15] Icelandic Human Rights Centre (n 14) 2.

power to some extent pursuant to their constituent instruments. Lord McNair, arguing for the treaty-making power of international organizations, wrote that 'if fully sovereign States possess a treaty-making power, when acting alone, it is not surprising to find the same power attributed to an international organization which they have created and the members of which are usually sovereign States.'[16] The question is to what extent international organizations can have a treaty-making power. Whereas a State possesses the totality of international rights and duties recognized by international law, the rights and duties of an entity such as an international organization must depend upon its purposes and functions as specified or implied in its constituent documents and developed in practice. Whilst there is an assertion that the treaty-making capacity of international organizations is confined to expressly stipulated powers in their constitutions, the generally agreed view is that international organizations can have expressly conferred and implied treaty-making power as well.[17] The 1986 Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations seems to accommodate this view. Article 6 of the Convention affirms that the treaty-making power of an international organization is determined by 'the rules of that organization'. In the preamble of the Convention, it is stipulated more specifically that the capacity of international organizations to conclude treaties are recognized to the extent that it is 'necessary for the exercise of their functions and the fulfilment of their purposes' and the capacity 'should be in accordance with their constituent instruments'.

Privileges and Rights under International Legal Personality

Rights that come with obtaining international legal personality include the right to enter into treaties, right to immunity, right to send and receive legations, and the right to bring international claims to obtain reparation for damages.[18] Those who have international legal personality can sue and be sued, can enter into contracts, can incur debt, and pay various taxes.[19] NGOs with personality are able to participate directly with international bodies and organizations created by legislation and treaties. They are given the ability to fund a cause rather than ask for funding for a cause. They are even given certain legal rights and protections.[20] NGOs that are parties of a treaty can file for wrongdoings. NGOs with personality can eventually gain representative status on international councils and assemblies.[21] NGOs that are parties of a treaty can file for wrongdoings. NGOs with personality can eventually gain representative status on international councils and assemblies.[22] Some NGOs such as Red Cross and Red Crescent Societies have been given rights that governments usually give to IOs.[23] NGOs are not held back by things such as political parties and re-elections, they are simply allowed to lobby for what they think is the best choice. This freedom is typically found only in NGOs. This freedom gives NGOs a type of flexibility and efficiency that, once again, other international actors do not process. More energy is bound to arise from an NGO rather than an Inter-Governmental Organization (IGO), as NGOs are voluntary commitments.[24] The people within an NGO are dedicated to their cause and are more likely to work harder to get things done.[25] NGOs are also able to act beyond the realm of sovereignty in a way that governments and their organizations cannot do. Once an NGO reaches consultative status, they are able to do even more. Consultative NGOs are able to receive official documents, attend

[16]Law Teacher, International Legal Personality (Lawteacher.com 2019) 1 <https://www.lawteacher.net/free-law-essays/international-law/international-legal-personality.php> accessed on 23rd November, 2020.

[17] Law Teacher (n-16) 1.

[18] NC Udeariry, To What Extent do International Organizations Possess International Legal Personality? (SSRN 2011) 1–7.

[19] N Shukalo, What is International Legal Personality and Why Does it Matter? (Academia.edu, 2008) 1-5 <https://www.academia.edu/1220009> accessed on 26th November, 2020.

[20]M Olz, 'Non Governmental Organizations in Regional Human Rights Systems' [2019] (2) *Colombia Human Rights Law Review*, 28.

[21] BM Bernau, 'Help for Hotspots: NGO Participation in the Preservation of Worldwide Biodiversity' [2006] (13) (2) *Indiana Journal of Global Legal Studies,* 617-643.

[22] Ibid.

[23]S Charnovitz, 'NonGovernmental Organizations and International Law' [2006] (100) (2) *The American Journal of International Law*, 348-372.

[24] S Charnovitz (n 23) 350.

[25] BM Bernau (n 21).

meetings of various councils, be consulted by a Secretary-General or committee, and participate in hearings in various ways.[26]

5. Approaches to International Legal Personality in the 21st Century

If the universe of international legal personalities were limited to states, international organizations (global and regional), UN specialized agencies, and human beings (individually and collectively), the source of international legal personality would not appear to impose especially difficult jurisprudential issues in the 21st Century, apart from the relatively limited problem of the extent of implied powers for international organizations and specialized agencies of the UN. In each case, there must exist some constitutive legal instrument, some legal principle, or some general practice of states accepted as law that may be examined to determine the source of a non-state entity's legal rights and duties, its legal capacity, or its legal interest. In recent decades, however, a plethora of new political identities such as multinational corporations, subnational governments and nongovernmental organizations - have emerged as new actors in international relations. Unresolved with these new international political identities is the source, if any, of their international legal personality. There seem to be at least three broad classifications emerging regarding the source of international legal personality for these new political identities: the legal traditionalist approach; the factual realist approach; and the dynamic state approach.

Legal Traditionalist Approach

In this way of thinking, one would believe that international legal personality must be explicitly transmitted from states to actors via some instrument. Without this transfer, an actor has no standing. In this approach, states are viewed as the ultimate international actors and the only source for personality.[27] The legal traditionalists tend to approach international legal personality for new, international, non-state, political, identities from the position that sovereign states have primacy over all other entities and actors. That primacy places full international legal personality, in the first instance, in states in the sense that states are the ultimate source for rights, duties, privileges and immunities under traditional international law. Legal traditionalists would require new international political identities to establish that they directly or impliedly derive claimed international legal personality in some manner from states in the same way that existing non state legal personalities, like international organizations do.[28] Here, the international legal personality of non-states entities must be discernibly transferred from states to the non-state entity through some legal instrument, general principle of law, or rule of customary international law (the general practice of states accepted as law). Without that transfer, non-state entities should not be taken to have either international legal personality or the consequent legal standing or legal capacity to assert international law rights and duties directly in international law fora. An underlying rationale for the legal traditionalist approach to the source of international legal personality is a powerful one: States under the international legal system are 'the repositories of legitimated authority over peoples and territories' and appropriately must be the ultimate legally traceable source for the international legal personality for all non-state entities.[29] Legal traditionalist stress that an inherent definitional requirement for statehood, absent in all other non-state entities, is a stable population living in a defined territory. As such, all international law rights and obligations properly flow from states. Otherwise, state populations could be bound by international law formed and applied without their consent expressed through their state governments contrary to notions of law based on a source of representative government.

[26] M Olz (n-20).

[27] Wikipedia, International Legal Personality (Wikipedia 2020) 3 <https://en.wikipedia.org/wiki/International_legal_personality> accessed on 23rd November, 2020.

[28] The International Court of Justice opined that the UN Organization had international legal personality, at least where the source of UN legal personality may be fairly implied from the UN Charter, where the functioning of the United Nations requires that it be treated as a legal personality, and where subject matter is involved over which states have recognized UN competence (Reparation for Injuries Suffered in the Service of the UN, 1949 ICJ Rep 174, 182).

[29] W Freidmann, The Changing Structure of International Law (1964) 213.

Factual Realist Approach

The factual realists generally assert, as a matter of fact, that the state is irretrievably in decline and that new non state entities are increasing in number and influence in international relations. Those facts, in turn, require complementary and fundamental changes in the legal source of international legal personality under international law, especially if the trend of those facts continues. Under the factual realist scenario, there would arise in the place of states, presumably, either of two international structures. The first possible structure would be some sort of monistic international governmental entity like a unitary global super state. The second, alternative, structure would be a non-territorially based more fluid global system in which states, although they may continue to exist, are dominated by a world wide web of international organizations, public and private interest groups, corporations, and subnational governments operating through interconnected economic, financial, and political relationships. As to the decline of the state, factual realists point to global integration on all fronts, which they posit is reducing the nature and relevance of the state, at least as the ultimate source of international legal personality for non-state entities. In this new world order, the primacy of states is increasingly anachronistic because the factual predicate for the continued dominance of territorially-based political economies epitomized by the state is eroding. Factual realists point to the increasing movement and mobility of humans, the growing acceptance of dual or multiple nationalities for humans,[30] and the emergence of non-territorial international markets (underscored by cyberspace and the internet). As a result of such facts, states, viewed from an international perspective, are becoming increasingly removed and separate from their populations on a growing number of fronts. Populations, in turn, are relying increasingly upon a growing number of non-state entities to represent and pursue an expanding variety of international interests. Factual realists also assert that the passive-reactive response of states to new international problems makes their position as the legal source of international legal personality for non-state entities out of date. As a result of this new factual reality, states in the future should no longer be the sole international law source of the international legal personality of non-state entities.[31]

Dynamic State Approach

The dynamic state approach takes, more or less, a middle position between the legal traditionalist and the factual realist approaches on the source of international legal personality for new non-state international political identities. The dynamic state approach generally views that both legal traditionalists and factual realists assume a static, rigid body of international law: the legal traditionalists tend to preserve it; the factual realists tend to ignore it. The dynamic state approach posits a more fluid and accommodating relationship between international law and international facts. It suggests that an increasingly vibrant interaction exists among municipal and international law, states and other international players, and the source of international legal personality.

Under this approach to international legal personality, the state is viewed as a dynamic and resilient entity that is increasingly responsive to changes in international facts.[32] Far from being in decline, the governance entity of choice, of course, among the populations of the world is the state.[33] For example, after the demise of the Soviet Union, the political aspirations of the former Soviet Union populations led to the establishment of a number of new independent states as the most desirable form of governance. In the 1990's alone 29 new states became members of the United Nations.[34] The dynamic state approach to the source of international legal personality takes the view that, over the long term, states have responded satisfactorily to changes in international facts in several respects. First, states, in response to changes in political philosophy, have moved away from notions of absolute state sovereignty to acceptance of popular sovereignty in which state governments have direct accountability to their populations. Second, states have directly and impliedly conferred on a growing number of international and regional organizations and agencies the competence necessary to address an

[30] P Spiro, *Dual Nationality and the Meaning of Citizenship* (EMORY LJ 1411 1997) 46.
[31] JE Hickey, The Source of International Legal Personality in the 21st Century, *2Hofstra L & Pol'y Symp* 1, 1997, 15 <https://scholarlycommons.law.hofstra.edu/faculty_scholarship/563> accessed on 23rd November, 2020.
[32] M Movsesian, The Persistent Nation State and the Foreign Sovereign Immunities Act (CARDOZO L REV 1083 1996) 23.
[33] Ibid.
[34] Ibid.

impressive array of international problems including peace-keeping, health, food, global finances, global and regional environments, human rights, and energy. Third, for at least a half century, states have made explicit provision, in a variety of settings, for the participation of new international political identities in international law fora.[35] State dynamists, however, would continue to insist that new international political identities to claim international legal personality must be able to point to some international law treaty, custom, or general principle of law. The reason for this is that the state remains the sole seat of representative governance accountable to world populations at the international level. State dynamists argue that formal representative government should not be cut off at the municipal law pocket by doing away with the state as the ultimate source of international legal personality. If new international political identities may determine for themselves whether or not they are international legal personalities this would precisely be the result.

6. The Extent of the Legal Personality of Subjects

State

The state has been since time immemorial considered to be subject of international law. Also, it can be asserted that the states are primary subjects of international law as the obligations flow from the states. It is the states which are recognized and held liable not for their acts but even for the acts committed by their citizens also. Also, in terms of international trade and relations, it is the state which has the duty and power to conclude relations with the international front. For example, in India, liberalization and globalization of the economy was done after the positive intervention from the government.[36] This category is by far the most important, but it has its own problems. For instance, the existence of 'dependent' states with certain qualified legal capacities has historically complicated the picture, but, providing the basic conditions for statehood existed, the 'dependent' state retained its personality. In some federations (notably those created by a union of states at the international level), the constituent members retain certain residual capacities. In the constitutions of Switzerland and Germany, component states are permitted to exercise certain state functions, including treaty-making. Normally, the states, even when acting in their own name, do so as agents for the union.[37] The US Constitution enables the states of the Union to enter into agreements with other states of the Union or with foreign states with the consent of the Congress. But this happens rarely if at all, and in most federations, old and new, the federal government's power to make treaties with foreign states is exclusive. The position of the International Court, set out in LaGrand and Avena, is that international obligations under the Vienna Convention on Consular Relations (VCCR) must be fully observed irrespective of constitutional limitations, and though the means of implementation remain for it to choose, the federal state incurs responsibility for the wrongful acts of its subdivisions.[38]

International Organizations

It is widely understood that international organizations enjoy personality, but organizations are often understood to only enjoy personality in relation to the states that create them.[39] Although the International Court of Justice (ICJ) held in *Reparations* that the United Nations enjoyed objective personality vis-à-vis a state that was not a member, objective personality is not the dominant view on the personality of international organizations.[40] That does not mean that non-members cannot exercise the choice to recognize the personality of the international organization under special law, act or agreement. It simply means that international law does not require non-members to respect the

[35] For example, Article 71 of the UN Charter adopted in 1945 explicitly authorizes the Economic and Social Council to provide for the non-voting participation of NGO's in Council and specialized agency deliberations. More recently, Article V (2) of 1994 Marakesh Agreement Establishing the World Trade Organization authorizes the General Council to have "effective cooperation" with NGO's.

[36] J Garg, Subjects of International Law (Indianlegalsolution.com 2020) 3 <https://indianlegalsolution.com/subjects-of-international-law/> accessed on 23rd November, 2020.

[37] Law Explorers (n-4) 1.

[38] Law Explorers (n-4) 1.

[39] DJ Ettinger, The Legal Status of the International Olympic Committee (PACE YB Int'l L 97 1992) 4.

[40] *Reparation for Injuries Suffered in the Serv. of the UN*, Advisory Opinion, 1949 ICJ Reps 174, 187-8 (April 11).

personality of an international organization of which they are not a member.[41] Thus the organization can operate and is capable of holding rights and obligations under international law only in its relations with the states that create or interact with it.[42] While this relative personality might seem to create awkward potential situations, most states will take a pragmatic view and engage with the organization as an international legal person. Where they do not, the relative links of rights and duties is not so different from other managed fragmented regimes, such as the law on reservations to multilateral treaties.

Self-determination Peoples, Indigenous Peoples and National Liberation Movements

In addition to international organizations, there are a variety of other international actors that can bear limited, relative and functional international personality. There is no reason *a priori* why there cannot be other international legal persons than states and international organizations.[43] Firstly, 'peoples' have been recognized as holders of the right of self-determination under international law,[44] and the right to receive support in seeking independence from domination, which may even amount to a right to sovereignty (or sovereign rights). If our test to be an international legal person is some functional vesting of an international right, then holding the right to self-determination, might qualify.[45] Being an entity with some international rights, we can understand the entity to be an international legal person insofar as it holds those rights. National Liberation Movements (NLMs) are also accorded certain international rights and duties, and thus a degree of personality, as a kind of agent of the territory they purport to liberate. They have been understood to be capable of issuing binding unilateral statements, especially statements pledging to be bound by the Geneva Conventions, in their de-colonialization struggle. For example, while sometimes spoken of as a 'Memorandum of Understanding', the ICJ appeared to consider the Oslo Accords as a binding legal instrument.[46]

Insurgents, Belligerents, and Combatants

In practice, belligerent or insurgent bodies within a state may enter into legal relations and conclude agreements on the international plane with states and other belligerents/insurgents. Treaty-making status has been attributed to parastatal entities recognized as possessing definite if limited form of legal personality. For instance, insurgent communities recognized as having belligerent status – *de facto* authorities in control of specific territory. This statement is correct as a matter of principle, but its application to particular facts requires caution. A belligerent community often represents a political movement aiming at secession: outside the colonial context states have been reluctant to accord any form of recognition in such cases, including recognition of belligerency.[47]

Private Organizations: Corporations and Non-Government Organizations

Other organizations are increasingly considered international persons for limited, functional purposes. These entities can be formally private entities, such as corporations or universities, sometimes incorporated by states and sometimes by individuals, and sometimes under domestic law, yet at other times created by treaty. For example, the University for Peace's creation was based on UN General Assembly Resolutions.[48]

Religious Organizations

Turning from private organizations to religious organizations, these entities are also operating on the international plane to some degree. While religious organizations do not appear to have a unique legal

[41] *EUI v Piette*, No 149, 1999 Giustizia civ 1309 et seq (Ct Cass (Sez Uni), Ital, March 18, 1999) reprinted at (1999) ITAL YB Int'l L 155, 156.
[42] I Brownlie, Principles of Public International Law (6th Edn, 2003) 57.
[43] Draft Articles on the Law of Treaties between States and International Organizations or Between International Organizations, UN Doc A/CN4/SER A/1981/Add 1, 2 YB Int'l L Comm'n 22 (1981).
[44] *East Timor (Portugal v Australia)*, 1995 ICJ Reps 90, 102.
[45] R Portmann, Legal Personality in International Law (2010) 272.
[46] *Legal Consequences of the Construction of a Wall in the Occupation Palestinian Territory*, Advisory Opinion, 2004 ICJ Reps 136.
[47] Law Explorers (n 4) 2.
[48] UNGA Resolution 34/111 (December 14, 1979); UNGA Resolution 35/55 (December 5, 1980).

status in international law based on their mission, they are capable of bearing international legal personality and have at times been accorded personality on a functional basis.[49]

The Individual

Modern states practices have accepted in a limited way that Individuals have international legal personality. This position of the individual is not equivalent to the states; still, individuals have got legal personality due to many reasons as posited earlier under the fictional theory of subjects of international law. Individuals have got various rights at International law, which gives them the confidence to be a part of it. The Universal Declaration of Human rights, 1948, gives various rights to individuals at an international forum.[50]

7. Conclusion

Today in modern times, states are not the only subjects on international law. They are still the main subjects but in changing character of international law, international organizations, individuals and certain non-state entities got the status of subjects in International Law. Now Individuals can enforce their rights in certain capacity against the states. Though, there is a wide gap which exists between the rights of the states and individuals or other non-state entities at the other end. It can be concluded that the notion of subjects of international law is multifaceted, and certainly dynamic, which is especially important in circumstances of contemporary challenges that are placed within the international legal order. However, more still needs to be done to ensure an expansion in the scope of the legal personality of non-state entities. It is recommended that States being the principal subject of international law have an obligation to enter into more treaties and agreements to give credence to the scope of the legal personality of other non-state entities to accommodate recent developments at the global level. These would ensure a balanced accountability of the subjects of international law in protecting and enforcing human rights.

[49] Ibid.
[50] Law Tycoon (n-3) 4.