

# **NIGERIAN CURRENT LEGAL PROBLEMS**

**VOLUMES 2 & 3**

*edited by*

**I. A. Ayua**



**NIGERIAN INSTITUTE  
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PROBLEMS**

(Volumes 2 & 3)

(1993-1995)

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L.A. Ayub

(Director-General)

*Nigeria Institute of Advanced Legal Studies, Lagos*



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## Foreword

Since the publication of the first volume of this periodical in 1985, the Institute has undergone much growth and expansion both in terms of research effort as well as its human and material back-up. The number of titles published by the Institute has grown considerably. In the process, these series which were conceived of mainly as a means of publishing staff seminar papers have been somewhat overtaken by individual or joint publications.

It is, therefore, a rare honour for me, shortly after my assumption of office as the new Director-General, to write the foreword to this combined Volume which comes ten years after the first edited by Hon. Dr. T. Akinola Aguda, the Institute's first Director-General.

Like the Institute itself, this particular publication which is in two Volumes has also witnessed phenomenal growth. From the 4 Chapters in Volume 1, there are now 13 Chapters - 7 Chapters in Volume 2 and 6 in Volume 3. The issues dealt with in the two Volumes are current and controversial. They epitomise the Institute's commitment to expanding the frontiers of legal debate and research and contributing to the country's social, economic and political development as it is statutorily mandated to do. It is my hope that the publication will now become more regular than once in a decade.

Needless to say the publication is a forum for the dissemination of research findings by staff of the Institute and, therefore, the opinions expressed therein are entirely those of the writers. They do not necessarily reflect the position of the Institute. However, they are sound and scholarly views which by the Institute's mandate must be brought home to the wider Nigerian audience in general and the legal community in particular.

It is my esteemed pleasure to commend this publication to lawyers, policy-makers, researchers and students interested in the important aspects of law and society dealt with in this combined Volume.

**Prof. I.A. Ayua**  
*Director-General*



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## Chapter I

### Retreat of the Security Council

By

M. A. Ajluni

#### Introduction

International law is based on the consent of States or sovereign communities. It follows that the primary duty of the government of a State is to fulfil its obligations as a result of international law. This duty may be very much more difficult to fulfil in the case of a State which is a member of a political, economic or religious group or is bound by the law of a State which is a member of a political, economic or religious group. It is the duty of the State to fulfil its obligations as a result of international law. This duty may be very much more difficult to fulfil in the case of a State which is a member of a political, economic or religious group or is bound by the law of a State which is a member of a political, economic or religious group.

All the States have a duty to fulfil their obligations as a result of international law. This duty may be very much more difficult to fulfil in the case of a State which is a member of a political, economic or religious group or is bound by the law of a State which is a member of a political, economic or religious group. It is the duty of the State to fulfil its obligations as a result of international law. This duty may be very much more difficult to fulfil in the case of a State which is a member of a political, economic or religious group or is bound by the law of a State which is a member of a political, economic or religious group.

## Volume 2

Generally, international law is based on the consent of States or sovereign communities. It follows that the primary duty of the government of a State is to fulfil its obligations as a result of international law. This duty may be very much more difficult to fulfil in the case of a State which is a member of a political, economic or religious group or is bound by the law of a State which is a member of a political, economic or religious group. It is the duty of the State to fulfil its obligations as a result of international law. This duty may be very much more difficult to fulfil in the case of a State which is a member of a political, economic or religious group or is bound by the law of a State which is a member of a political, economic or religious group.

The Security Council of the United Nations was established in 1945. It is the primary organ of the United Nations. It is responsible for the maintenance of international peace and security. It is also responsible for the settlement of international disputes. It is also responsible for the supervision and control of international armaments. It is also responsible for the promotion of international cooperation in the economic, social, cultural and educational fields. It is also responsible for the promotion of international law. It is also responsible for the promotion of international justice. It is also responsible for the promotion of international human rights. It is also responsible for the promotion of international democracy. It is also responsible for the promotion of international freedom. It is also responsible for the promotion of international peace. It is also responsible for the promotion of international security. It is also responsible for the promotion of international stability. It is also responsible for the promotion of international order. It is also responsible for the promotion of international justice. It is also responsible for the promotion of international human rights. It is also responsible for the promotion of international democracy. It is also responsible for the promotion of international freedom. It is also responsible for the promotion of international peace. It is also responsible for the promotion of international security. It is also responsible for the promotion of international stability. It is also responsible for the promotion of international order.

## Chapter 1

### Reform of the Security Council

by

M. A. Ajomo

#### Introduction

International law is based on the common consent of States as sovereign communities. It follows that the member-states of the international community are equal to one another as subjects of international law. This does not by any means imply that States are by nature equal in terms of political, economic or military power or in terms of the size of their geographical territories. Equality here means legal equality whatever differences which may otherwise exist as regards size, population, power, degree of civilisation, wealth or other attributes.

All this having been said, legal equality must not be confused with political equality. The doctrine of legal equality of States has its most striking application on the international plane in the principle that "no state can without its consent be made a party to arbitration or to judicial settlement of disputes ..."<sup>1</sup>. Politically, States are in no manner equal. Generally, arrangements made by the body of the Great Power tend to gain the consent or acquiescence of the minor States.<sup>2</sup> No State has the character of a Great Power by law. Actual size, strength and economic influence are some of the factors which make a state a Great Power. Changes in States, therefore, often take place as changes occur, as we shall soon see, in these factors. Towards the end of the 15th century, for example, Spain and Portugal were the two leading powers in the world, hence Pope Alexander VI was able to divide the world by means of the Papal Bulls of Demarcation of 1493 and 1506 between the two countries. It was when Britain rose to challenge them in the late 16th and early 17th centuries that their monopoly of power was broken.

At the time of the Vienna Congress in 1815, eight States were considered Great Powers; these were: Great Britain, Austria, France, Portugal, Russia, Spain, and Sweden. Their number decreased when Portugal, Spain and Sweden lost the character. The United States rose to a Great Power as a result of her civil war in 1865, and Japan out of her war with China in 1895. There was fluctuation in the number until the end of the First World War when during the Peace Treaties