

U.S. Fleet Forces



Shooting Down the Chinese Balloon - Questions of Ownership and Proportionality

- Ashutosh Ghag (V B.A.LL.B.)

The U.S. shot down an unidentified flying object off the coast of South Carolina last month. While U.S. officials accuse it of being a Chinese surveillance drone, the Chinese government states that it was a civil aircraft used for meteorological and other scientific purposes that accidentally strayed into U.S. airspace. With the U.S. saying that the shooting down of the balloon was well within its rights, China alleged an unauthorised use of force. But does shooting down the balloon violate international law?

The legal questions have been broken down by Batuhan Betin and Charlie Dunlap in their writings. For any conclusive answer, two questions must be answered - whether the aircraft is considered a State or a civilian aircraft; and whether shooting down the balloon was a *proportional* act of self-defence.

As per Article 3 (d) of the Chicago Convention on International Civil Aviation, a State aircraft may not fly

over another State's territory without permission. If the balloon was owned by the Chinese military or used for surveillance purposes, it would fall under this definition and thus, violate international law. A civilian-owned balloon would not be subject to this rule. However, no official documents regarding the balloon's ownership have been disclosed.

The second question arises when we look at the act as an exercise of the right to self-defence. The action must be proportional to the threat posed as a valid use of force under international law. The balloon was unmanned and shot down by a single missile over the coast, not threatening any life in the vicinity. The U.S. recovered the balloon shortly after and no damage was done to anything other than the balloon itself. Unless it is shown that capturing the balloon or restraining it was more feasible, the use of force would be considered valid and proportional.

However, the future remains unclear. It is unlikely that the dispute will go to a Court but will merely be another entry into the growing list of issues between China and the U.S.

News at a Glance

The Kharkiv Human Rights Protection Group announced that Russia has again used its "proxy 'Donbas republics'" to violate international law by staging the trials and sentences of three Ukrainian prisoners of war. Amnesty International has called the convictions "sham trials" which "should be considered null and void." For more information, see here.

Iran and Saudi Arabia agreed to re-establish diplomatic relations. Under the agreement, the re-opening of embassies and return of ambassadors are required to be completed within two months. Since 2016, the two countries have been engaged in a struggle for regional dominance and in a proxy-war in Yemen. For more information, see here and here.

The European Court of Human Rights ruled that Hungary's practice of publishing information about people who owe tax payments is a violation of their fundamental rights to respect for private and family life and the home. For more information, see here.



The Rise of Electric Vehicles and International Climate Policy

- Rudrani Warad (IV B.A.LL.B.)

As the world continues to grapple with climate change, the use of electric vehicles (EVs) is rapidly gaining popularity as a way to reduce greenhouse gas emissions. This shift towards EVs has important implications for international climate policy, particularly in the context of the Paris Agreement.

The Paris Agreement aims to strengthen the global response to climate change by keeping the global temperature rise below 2°C. To achieve this, the agreement requires countries to submit Nationally Determined Contributions (NDCs), which are national climate plans that outline their efforts to reduce greenhouse gas emissions. For instance, the EU aims to reduce CO2 emissions from new cars by 55% by 2030 and promote EVs with policy measures, while China targets 20% of new car sales to be new energy vehicles by 2025; the US and India are also committed to reducing emissions and promoting EVs.

However, the growth of EVs presents challenges for international climate policy. The production and disposal of EV batteries can have environmental impacts, such as resource depletion and pollution from the mining and manufacturing processes. Lithium-ion cells, found in EV batteries, can release toxic chemicals, and the presence of heavy metals like cobalt and nickel further compounds the challenge of managing battery waste.

Moreover, the shift towards EVs has geopolitical implications for the global oil market and the economies of oil-exporting countries. It could reduce the global demand for oil, shifting the balance of power in the global energy landscape, thus diminishing the influence of oil-producing countries in shaping energy policies and enhancing the role of non-oil-producing nations. This shift could also have implications for international relations and diplomacy, as countries may need to renegotiate trade agreements and alliances based on changing energy dynamics.

To ensure the long-term

News at a Glance

The United Nations Human Rights Office of the High Commissioner published a statement saying that the US imposes sanctions upon entities in the absence of universal jurisdiction, leading to violations of international law. For more information, see [here](#).

Hungary promised to defend an education law in the Court of Justice of the European Union against criticism by the EU that it discriminates against people on the basis of sexual orientation and gender identity. For more information, see [here](#).

The European Court of Human Rights held Russia responsible for the unlawful arrests, ill-treatment and detention of two vulnerable men by authorities from Abkhazia, a breakaway state recognized and supported by Russia. For more information, see [here](#).

The EU imposed sanctions against officials from six countries, including Afghanistan and Russia, due to their abuse of the rights of and violence against women. For more information, see [here](#).



sustainability of EVs, it is essential to address the environmental and economic challenges associated with their production and disposal.

The Amundsen Basin and an Extension of the Russian Continental Shelf

- Ashutosh Ghag (V B.A.LL.B.)

The Commission on the Limits of the Continental Shelf (CLCS) made its recommendations to the Russian Federation on the extension of its continental shelf. But what is the continental shelf? What is the CLCS? And what do the actual recommendations mean?

The continental shelf is part of a continent that lies under an ocean and includes the seabed and the subsoil. Under the United Nations Convention on the Law of the Sea, a State can extend its rights over the continental shelf up to 200 nautical miles from its coastline. However, in certain situations, the State may attempt to extend its jurisdiction beyond 200 nautical miles based on geographical grounds. In such a situation, it must submit to the CLCS, which will evaluate the merits of the submission and accordingly rule

on the new extension.

In 2001, Russia made its first set of submissions to the CLCS for an extension of its continental shelf in the Arctic Ocean. It revised the same in 2015 and again in 2021. On the basis of these submissions, the CLCS stated that Russia is entitled to over a million square kilometres of the continental shelf. The only area in which it did not accept the Russian Federation's submissions was the Amundsen Basin, for which it directed Russia to resubmit its arguments.

Regardless of the geopolitical implications of this affirmation on the Russian presence in the Arctic, the current controversy arises from contesting submissions. Denmark/Greenland and Canada have made submissions for extending their respective continental shelves, which directly conflict with Russia's claims. However, the CLCS is bound by procedure to only listen to the submissions in the order they were submitted. Thus, it cannot deal with these claims for the foreseeable future. It is uncertain whether the CLCS will go back on its earlier decisions or follow precedent.

News at a Glance

UN member states agreed to a legally-binding high seas treaty after nearly 20 years of talks. The treaty aims to protect 30 percent of seas by 2030. At present very little of the high seas are subject to any protection with pollution and overfishing posing a growing threat. For more information, see [here](#).

The European Court of Human Rights (ECHR) found that Russia violated the multiple human rights of an American expatriate and her Russian husband when Russia revoked their residential permit. For more information, see [here](#).

The United Nations High Commissioner for Refugees (UNHCR) expressed concern about the growing number of people fleeing their homes as a result of fighting in the Democratic Republic of the Congo (DRC). The DRC has 5.8 million internally displaced people in Africa, making it the continent's largest internal displacement crisis. For more information, see [here](#).



Furthermore, the dispute has thrown a light on the importance of national laws and international treaties when it comes to patent disputes, as well as the role of arbitration and other alternative dispute resolution methods in resolving such disputes.

The Economic Spoils of War

- Manas Pimpalkhare (V B.A.LL.B.)

On February 24, 2022, on a bleak and oddly chilly morning, the New York Times reported that Vladimir Putin had announced the beginning of a military operation against Ukraine. For the first time in the 21st century, the world was seeing the real perils of a dictatorial power hunting for full-fledged war. We look at the war one year after it broke out.

A significant shift in International Economic Law (IEL) awaits us in the wake of this conflict. The global agrarian economy, i.e. the countries with food security crises, depends on both States for a supply of wheat and corn since they control a significant chunk of the global supply. The sanctions imposed on Russia by the West have further complicated matters of global trade. Moreover, the trade

of oil has become a controversy, forcing the IMF to settle for three main negative impacts of the war - inflation, poverty, and the food crisis.

All three problems identified by the IMF are linked; creating a Hydra-like villain, where eliminating a single obstacle would only enrage the other two. Moreover, a capitalist narrative entails a discourse upon the Broken Window Fallacy, which peddles the idea that war may profit a State. However, that theory falls to pieces when we look at the aforesaid food security crisis and the obscure diplomacy arising out of oil trade. While the production of means of war, i.e. guns, bullets, etc., generates profits for a small share of the population, the majority has to face the spoils of war. Laypersons face a hike in prices of essential commodities and services. In these tumultuous times, the ruling class often narrates the Broken Window theory to cloak the spoils of war. However, sunlight is the best disinfectant, and modern society enables us to see the economic plights of the populace.

Lastly, the international fraternity is

News at a Glance

The UK and France agreed on a multi-million pound package of measures to stop migration across the Channel which will see a new detention centre established in France as well as the deployment of more French personnel and enhanced technology to patrol beaches in a shared effort to drive down illegal migration. For more information, see here.

HSBC bought the UK arm of Silicon Valley Bank for a symbolic one pound, rescuing a key lender for technology start-ups in Britain, as the biggest bank collapse since the financial crash continued to roil markets. The rescue of SVB UK was welcomed by British government ministers, regulators and technology start-ups. For more information, see here.



empowered to lay sanctions on belligerents, but the IEL regime falls flat as it fails to stop the spoils of war. The persistence of the global economic system is not enough to generate complete peace. However, it is about time we called the situation as it is. If it sounds like a gun and kills like a gun, it is a gun.

The ICJ Advisory Opinion: A Tool to Resolve the Israel-Palestine Conflict?

- Ashutosh Ghag (V B.A.LL.B.)

The United Nations General Assembly (UNGA) adopted Resolution 77/247 regarding the Israeli practices affecting human rights in the Occupied Palestinian Territory. The resolution condemned Israel's ongoing human rights violations and demanded the State cease them immediately. Furthermore, the UNGA asked the International Court of Justice (ICJ) for an advisory opinion on two questions -

- What are the legal consequences arising from the ongoing violations by Israel of the right of the Palestinian people to self-determination, from its prolonged occupation,

settlement, and annexation of the Palestinian territory occupied since 1967, including measures aimed at altering the demographic composition, character, and status of the Holy City of Jerusalem, and from its adoption of related discriminatory legislation and measures?

- How do the policies and practices of Israel affect the legal status of the occupation, and what are the legal consequences that arise for all States and the UN from this status?

The UNGA, under Article 96(1) of the UN Charter, is authorised to ask the ICJ's opinion on "any legal question." It is read with Article 65(1) of the ICJ Statute. Though they do not expand on what a 'legal question' is, it is quite clear that these questions are within the scope of the Article.

In the Interpretation of Peace Treaties case, the ICJ laid down that under Article 65, it also has the power to decline the request for an Advisory Opinion, although it should not do the same unless there are compelling reasons. One such reason may be the lack of

Upcoming Activities

8th Thessaloniki Summer Courses on International Law and Human Rights: Women, Gender and International Human Rights Law

It will be organized from 28th June, 2023 - 7th July, 2023. The summer course will be held in a hybrid format. For more information, see [here](#).

Call for Papers: Brawijaya Law Journal – Journal of Legal Studies

The Vol I (April 2023) focus section will be on "The Discourse of Civil and Political Rights in Theory and Practice." In Vol II (October 2023) the BLJ will consider "Current Challenges, Developments and Events in The International Law." The deadline for submissions is 25th March, 2023 (for 1st Volume) and 30th June, 2023 (for 2nd Volume). For more information, see [here](#).



consent of an interested State. Israel, so far, has not lodged any formal protest against the Advisory Opinion. Even if it does, whether such a protest would be enough to outweigh Israel's acceptance of the ICJ Statute and count as a lack of consent is yet to be seen.

The last question that arises is the efficacy of such Advisory Opinions. They are non-binding but qualify as a source of international law. ITLOS, in its Mauritius Maldives case, found them to have legal effect. This Advisory Opinion provides grounds for the UNGA or the UNSC to impose sanctions on Israel to dissuade it from its current behaviour. All this, however, shall be solely based on the contents of a possible opinion.

Editor:

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Upcoming Activities

Call for Papers:
MenschenRechtsMagazin

For issue 28, 2 (2023) they are looking for contributions in German or English dealing with current issues of universal, regional or national human rights protection. Interested parties can send a one-page abstract by 1st April, 2023. For more information, see [here](#).