



The Burden of Imperial Past: Modern Day Succession of State into Debt

- Anuradha Lawankar (I B.A.LL.B.)

The Vienna Convention of 1983 was adopted by 54 States at the United Nations Conference on Succession of States in Respect of State Property, Archives, and Debts (The Convention). Only seven States signed and ratified the convention, while others, i.e., the creditor states voted against its adoption. The clamour to address the issue of the succession of States into debt was prominent during the period of decolonization.

The Universal Succession and the Clean Slate theory advocated for two distinct points of view. The former represented the interests of the creditors and supported the continuation of debt obligation, Whereas the latter argued for the repudiation of the debt obligation by the newly independent state. The legal doctrine of odious debt explains sovereign debt as debt incurred without the consent and benefit of the people. In modern times, countries have both rejected and continued their debt obligations. In contemporary times, countries have repudiated their

debts, including Indonesia to the Netherlands in 1956, Algeria in 1962 and others. They may however choose to avoid repudiation to maintain their credibility in international markets and attract foreign investment.

The major drawback of the Convention was that it contained provisions that did not fully reflect customary law nor receive universal acceptance. This may be because the subject is not easily applicable to prescriptive treatment and may have to be dealt with relatively. Thus, the International Law Commission's project for the codification of succession of States into debts was a failure and its measures had little impact on state practices. There is a need for an institution that determines the incurrence of odious debt. It could create a new market equilibrium where a country's reputation would not be damaged by refusing to repay imperial sovereign debts.

News at a Glance

The European Parliament voted in favor of EU accession to the Istanbul Convention, which aims to prevent and combat violence against women. The refusal of some member states prevented it from being ratified. However, a recent opinion from the EU Court of Justice found that the EU may ratify the convention without unanimity of member states. For more information, see [here](#) and [here](#).

The Syrian Network for Human Rights (SNHR), along with 20 other human rights organizations, issued a joint statement calling out Lebanon's deportation of Syrian refugees. They claim the deportations violate the international law principle of non-refoulement, which protects individuals from being returned to a country where they face torture, cruel, inhuman, degrading treatment or punishment and other irreparable harm. For more information, see [here](#).



Mending Serbia-Kosovo Relations, Beyond the Ken of Ohrid?

- Tanishq Mishra (II B.A.LL.B.)

In March, Kosovo and Serbia agreed on the implementation of the '2023 Ohrid Agreement,' which was mediated by the European Union (EU) and involved the good offices of France, North Macedonia, and the United States. The involvement of these third parties was an exercise of their rights laid down in the Hague Conventions of 1899 and 1907. While the good offices influenced the opposing sides to enter into negotiations, the EU took an active part by being responsible for drafting and implementing the agreement.

This is not the first time, since Kosovo's unilateral declaration of independence, that the EU has attempted to normalize relations between the two nations, yet this normalization remains unachieved. The frostiness of the current relations between the two nations arises out of the unwavering position of Serbia, adamant on opposing Kosovo's statehood along with her conflict with Kosovo over the issue of rights (especially those of self-maintenance) that the Serb

minority in Kosovo borders ought to have.

The EU mediated notably in the Brussels Agreement (2013), which failed to mend relations between the two disputing nations. The agreement did not restrict Serbia from blocking Kosovo's membership in international organizations. This resulted in Kosovo enacting severe trade sanctions on Serbian products in response to the alleged involvement of Serbia in Kosovo's failed Interpol membership bid. Another failure of the agreement was that despite its ratification by Kosovo, it is alleged that she breached the clauses of autonomy and protection granted to the Serb minority in her borders by the Brussels agreement. On this point, the Minister for Foreign Affairs of Serbia accused Kosovo of violating international law and the President of Serbia declared that "Brussels Agreement no longer exists."

The Ohrid Agreement, by containing restrictions on Serbia from blocking the membership of Kosovo in international organizations, invigorated some hope of normalizing relations between the States. This was not

News at a Glance

The UN Human Rights Council narrowly passed a resolution condemning violations of humanitarian law amid the ongoing violence in Sudan. The resolution, which slammed violations of international law on both sides of the conflict, also expanded the mandate of an expert monitoring group in the country. For more information, see [here](#).

Human Rights Watch and Amnesty International urged Burkina Faso's authorities to ensure an independent and impartial inquiry into a massacre in the northern village of Karma. This reiterated an earlier call for an investigation by the Office of the High Commissioner for Human Rights. All organizations noted that the deliberate killing of civilians violates international humanitarian law and constitutes a war crime. For more information, see [here](#) and [here](#).



long-lived though, as Serbia voted against Kosovo's bid in the European Council's Committee of Ministers in April. Serbia also went to the extent of threatening to disregard the territorial integrity of the Balkan countries that voted in favour of Kosovo's membership or that abstained from voting. Although a two-thirds majority passed Kosovo's application, questions are raised on the viability and effects of the Ohrid Agreement. Failure to honour the Agreement can have negative consequences regarding the processes of EU accession and the financial aid Serbia receives from the EU. This is particularly significant for Serbia as the EU has provided more than EUR 3 billion in grants to her since 2001, making it the largest donor to the nation.

Despite an EU spokesperson claiming that the agreement remains "alive," whether Serbia will be sanctioned for violating the agreement, which is considered legally binding by both the US and the EU, remains unknown.

The Taliban Takeover of Afghanistan and Concerns Regarding State Recognition

- Arya Mitkari (I B.A.LL.B.)

State recognition refers to the formal acknowledgment of a particular entity as a sovereign State. It is a critical component of international relations and serves as a basis for establishing diplomatic relations, negotiating treaties, and engaging in trade and commerce.

A major hindrance which arises to challenge recognition is the existence of insurgent groups. The Taliban takeover of Afghanistan in August 2021 has raised numerous legal issues and concerns regarding international law.

The primary concern is the legitimacy of Taliban Rule. Taliban's rule has not been recognized by most countries and major organisations including the EU and the UN.

As per existing customary international law, there is ample reason to doubt whether Taliban meet the required standards for de facto recognition.

News at a Glance

UN High Commissioner for Human Rights, Volker Türk, warned against a "never-ending cycle of violence" in Haiti after releasing a quarterly report on the island nation. He recommends the international community increase support to Haiti's national police and begin the deployment of a "support force" for a limited period of time "under conditions consistent with human rights standards." For more information, see [here](#).

Reporters Without Borders (RSF) released their 2023 Press Freedom Index and accompanying report, noting that the rise of artificial intelligence, "fake content" and authoritarianism endanger journalistic integrity and expression around the world. While RSF noted press freedom improvements in Brazil and Malaysia due to changes in government, it raised alarm at the marked declines in India and Türkiye. For more information, see [here](#).



As per Article 1 of the Montevideo Convention, the takeover must be accepted as 'lawful' by States across the globe, to acquire de jure recognition.

The Taliban appear to be in military control of all the regions but the fact that the organisation has different groups heading each region raises the question of central leadership.

Contrary to this, the States, which are under illegal occupation or even under the control of the terrorists, continue to exist as States.

As per the Russian Government v. Leigh Valley case, granting or refusal of recognition of governments has nothing to do with that of the recognition of States. The aforementioned statements give us a clear explanation that even though the government is unstable and not recognized, it will not take away the statehood of Afghanistan.

The conflict with reference to the 'Taliban rule' will only be understood and would be summed up with due consideration of time.

For the situation to stabilise, the current government needs to come up with definitive measures, that are in accordance with international law, especially with regard to the international humanitarian law, so as to be accepted by the global community and put an end to the decades long conflict.

Where Does Outer Space Begin? The Absence of a Clear Definition and its Ramifications

- Soumik Ghosh (II B.A.LL.B.)

The X-15 is a high-speed aircraft capable of reaching altitudes of more than 350,000 feet and speeds of up to Mach 6.7. It is also the only aircraft to have passed the Kármán line, which is commonly regarded as the boundary between Earth's atmosphere and space. However, the lack of a precise definition of space has created difficulties in identifying whether an aircraft has violated another country's airspace, potentially leading to diplomatic disputes or even armed confrontation.

Territorial integrity refers to the State's right to maintain control over its own territory and guard against foreign elements from

News at a Glance

The UN Committee on the Elimination of Racial Discrimination issued findings concerning human rights in Argentina, Niger, the Philippines, Portugal, the Russian Federation and Tajikistan, reviewing their performance under the International Convention on the Elimination of All Forms of Racial Discrimination. The report found a series of racial inequities throughout the countries reviewed. For more information, see [here](#).

The European Court of Human Rights ordered Russia to pay approximately 130 million euros in compensation to Georgia, almost 15 years after the war in the South Caucasus. The case concerned allegations by the Georgian government that administrative practices by the Russian Federation amounted to breaches of the European Convention on Human Rights, in connection with the armed conflict between the two States in August 2008. For more information, see [here](#).



violating that right. The vagueness in the definition of space can put the idea of territorial integrity in jeopardy. If an aircraft like the X-15 were to travel to the edge of space, it could theoretically enter another nation's airspace without that nation's consent, which could be considered a breach of territorial integrity. It is also a well-established principle of international law that national sovereignty in terms of airspace does not extend indefinitely upwards.

The lack of a clear definition of where outer space begins creates challenges in regulating liabilities. States are responsible for any actions taken by organisations operating in space, whether or not those organisations are governmental in nature, according to the 1967 United Nations Outer Space Treaty. The State has a responsibility of care in this situation, but it is challenging to control the newly emerging private entities without an unambiguous definition of outer space.

Different nations have their own interests, whether they be commercial, scientific, or military, which can affect their perspective

on where outer space begins. Some nations might consider the concept of space to be a crucial component of their sovereignty or sense of national identity. For example, the US military awards the space badge to personnel who cross the altitude of 50 miles, regardless of the nature of their mission. If the US ratifies the Kármán line as the international standard, it would mean that they have to rescind these badges and honours bestowed as the Kármán line is placed at 80 miles above the earth's surface.

The issue of territorial integrity in the context of aircrafts capable of reaching the edge of space, like the X-15, poses a significant challenge for international relations and regulation. Only when the frontiers of national sovereign rights in space are clearly defined will deliberate actions of hostility be the sole factor leading to war. Otherwise, pressure from conflicting policies may lead to war against the participant's will.

The ambiguity surrounding the boundary between earth and space poses serious problems for territorial integrity, international

News at a Glance

A UN committee found that Mexico failed to ensure inclusive education for a woman with an intellectual disability. A claim was brought before the Committee on the Rights of Persons with Disabilities on the grounds that the Morelense Centre for Art had not appropriately secured inclusive access to tertiary education. The Committee ultimately stated that the State has an "obligation" to adhere to reasonable accommodations. For more information, see [here](#).



law, and regulation. The X-15 is one example of a plane whose high speeds and altitudes could be problematic, but it is not the only one. Different interpretations of the concept of space influence interests and worldviews. The issue requires continued discussion and cooperation to ensure the peaceful exploration and use of space.

Military Junta in Myanmar and the Legal Status of UNSC in Circumstances of a Civil War

- Sana Kulkarni (II B.A.LL.B.)

Since Myanmar gained independence in 1948, ethnic-based conflicts have resulted in unrelenting violence being unleashed on civilians leading to widespread humanitarian and economic crises. The UNSC adopted Resolution 2669 in December 2022, regarding the circumstances in Myanmar. The Council “demanded” an immediate end to all forms of violence throughout the country and “urged” the Myanmar military to immediately release all arbitrarily detained prisoners.

The subject of the binding nature of the UNSC resolutions was discussed by the ICJ in its Namibia

Advisory Opinion:

“The language of a resolution of the Security Council should be carefully analyzed before a conclusion can be made as to its binding effect. In view of the nature of the powers under Article 25, the question whether they have been in fact exercised is to be determined in each case, having regard to the terms of the resolution to be interpreted....”

The Military junta declared that the resolution enclosed several intrusive elements that contravened the principles and purposes of the United Nations, and thus they would not accept it. Since the adoption of the resolution, junta security forces have committed widespread and systematic abuses against the civilian population.

The resolution failed to include other actions required to address the situation, including a comprehensive arms embargo, targeted sanctions against military leaders responsible for grave human rights violations, and a referral of the situation to the International Criminal Court.

Upcoming Activities

Legal Clinics and International Law: A Growing Interaction – Conference

On 15th June, 2023, the Department of Law, Roma Tre University is holding an ESIL-supported hybrid conference on ‘Legal Clinics and International Law: A Growing Interaction’ to discuss opportunities and challenges of the clinical movement in relation to public international law. For more information, see [here](#).

Call for Abstracts: DILEMA Conference on AI

From 12th – 13th October, 2023, the DILEMA Project is organizing a conference around the complex and interdisciplinary issues raised by military applications of artificial intelligence. Submissions of abstracts (maximum 600 words) are invited on topics related to the theme of the conference from varied disciplines and methodological approaches. For more information, see [here](#).



The UNSC, in response to junta's blatant noncompliance, should explore options for economic accountability from the military, suspend all arms transfers to Myanmar, and build on previous action to pass a resolution establishing an arms embargo.

Necessity as a Defence to State Responsibility

- Shreya Basu (II B.A.LL.B.)

Necessity as a defence to state responsibility is provided under Article 25 of the Articles on the Responsibility of States for Internationally Wrongful Acts (ARSIWA), 2001. State responsibility is invoked when a State, or agencies of the State, act in violation of international law.

The most significant cases of a State claiming the defence of necessity are the cases filed against the Argentine Republic by the United States of America on alleged violations of the Bilateral Investment Treaty (BIT) after major changes in Argentina's economic policies triggered by the Argentine great depression of 1998-2002.

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After implementing emergency measures for the recovery of its downtrodden economy, US-based LG&E Energy Corp, suffered significant losses. A lawsuit was brought against Argentina by the company for alleged violations of the BIT in the International Centre for the Settlement of Investment Disputes (ICSID).

Argentina claimed the defence of necessity for the implementation of its economic policies. Article 25 further clarifies the essential elements for the defence of necessity:

1. Last resorts are valid if the national interests of the State are in grave peril; and
2. The national interests and obligations owed to other States are not compromised.

The Tribunal examined existing agreements, specifically, Article XI that contains provisions for the

Upcoming Activities

Call for Papers: Legal Protection of Carbon Sinks in the Fight Against Climate Change

UCD Sutherland School of Law invites paper submissions on the topic 'Legal protection of carbon sinks in the fight against climate change: Interactions between ecosystem protection and human rights.' Interested contributors are asked to submit a title and an abstract of around 400 words to the organizers by 9th June, 2023. For more information, see [here](#).

Countering Terrorism and Violent Extremism in the Public Interest Workshop

From 31st October – 1st November, 2023, the T.M.C. Asser Instituut is organizing a hybrid workshop titled 'Countering terrorism and violent extremism in the public interest.' Interested contributors are asked to submit an abstract of up to 500 words on topics falling within the workshop's overarching themes by 16th June, 2023. For more information, see [here](#).



protection of Argentina under the BIT. Argentina argued that its national interests are inclusive of its political and economic interests, and therefore the defence of necessity holds to absolve it of its responsibility. Accepting this, the Tribunal ruled in favour of Argentina. Notably, in an earlier case where Argentina had claimed the same defence, the Tribunal ruled against Argentina. Necessity, in both cases, was analysed under custom as a source of international law. Recognising the State's economic volatility, the Tribunal specified that necessity could only be claimed as defence when no alternative is available. These judgements emphasised the need for a restrictive interpretation of Article 25, in order to protect State obligations.

The defence of necessity is hence looked at through a critical lens, despite being deemed expansive enough to include economic and political national interests, along with military ones. As long as nations do not contribute to the situation of necessity and/or have substitutes that do not seriously impair their obligations in the international arena, it will be upheld in international courts.

Extradition and the Card of Human Rights Played by Fugitives

- Pritesh Shende (III B.A.LL.B)

Over the years, the UK has become one of the most preferred sanctuary for offenders from India. Nirav Modi, Vijay Mallya, Lalit Modi, are to name a few from the long list. Even though India has an extradition treaty with the UK since 1992, until now only two individuals could be successfully extradited to India. The process of extradition from the UK is complex and is regulated under the Extradition Act, 2003. The Magistrate court is designated to conduct extradition hearings and the argument of potential violence of human rights is customarily used by all the fugitives in their defence. As a result, many extradition requests are either denied or pending before the court.

The human rights card European nations including the UK give primacy to HRs concern while deciding upon extradition cases. Article 3 of European Convention on Human Rights (ECHR) states, "No one shall be subjected to torture or to inhuman or degrading treatment or punishment." In the

Upcoming Activities

Russian Aggression, the War in Ukraine and the Future of International Criminal Justice Symposium

On 22nd May, 2023, the European Society of International Law's Interest Group on International Criminal Justice, in collaboration with the Journal of International Criminal Justice will hold an online symposium on 'Russian Aggression, the War in Ukraine and the Future of International Criminal Justice.' For more information, see [here](#).

Tel Aviv University International Law Workshop: Remembering Karen Knop – A Roundtable on Her International Law Scholarship

This roundtable will take place online on 15th May, 2023. For more information, see [here](#).



landmark judgement of Soering v. UK, the European Court of Human Rights (ECtHR) equated poor prison conditions with torture, inhuman or degrading treatment.

Fugitives try to establish violation of article 3 of ECHR by directing court's attention towards poor prison conditions in India and potential violations of HRs if put in such prisons.

Essentially, India needs to work on prison reforms to meet standards laid down by the ECtHR. Indian prisons need to be made a secure place for rehabilitation.

Moreover, As per the bilateral treaty between the US and the UK, there is no requirement on the part of the former to provide prima facie evidence when requesting extradition of fugitives from the later. As a result, the US is very successful when it comes to extradition from the UK. Similar changes need to be brought in the bilateral treaty between the UK and India, to make it less restrictive and more efficient.

India needs to work urgently and foil the tactics used by fugitives to escape extradition.

Immunity Unmasked: Diplomatic Privilege or License to Abuse?

- Rutuja Bhand (III B.A.LL.B)

Diplomatic immunity is fundamental to International Relations, enabling ambassadors to fulfill their responsibilities without intervention from the host government. However, diplomats & their families misuse immunities, undermining the purpose of VCDR.

Abuses of diplomatic immunity can be divided into civil and criminal acts. Immunity from civil jurisdiction was created with credence that the recipient nation's diplomatic ties aren't damaged by private lawsuits. It relieves ambassadors from remitting penalties & damages. For instance, in case of traders' debts or non-payment of bills, creditors cannot prosecute diplomats to recoup debts. This creates persisting issues for the host nations.

However, some nations have taken steps to address these issues. Like authorities in the UK keeps a check on individual consumption by collecting bills from diplomats to prevent abuses. Under the VCDR,

diplomats are protected from motor vehicle mishaps. However, the USA has taken a major step in this regard by adopting the Diplomatic Relations Act that requires liability insurance for diplomats & their families operating motor vehicles in the USA.

Immunity from criminal acts is based on the theory of functional necessity, which requires unimpeded relations between nations. According to Art.31 of VCDR, diplomats are completely immune from receiving state's criminal jurisdiction covering minor abuses like traffic violations to felonies like plotting to undermine the national security of the receiving country or crimes against humanity.

Diplomats use diplomatic gadgets to smuggle goods across borders. In Aruba, a Venezuelan general was detained for narcotics trafficking. However, he was released after the Venezuelan government threatened sanctions. The UK had made an attempt to nip this problem in the bud and considered an amendment that required the opening of diplomatic bags upon suspension but the



House of Commons Committee rejected the amendment due to practical difficulties.

Human trafficking, forced labor, slavery are some of the most prevalent crimes committed by diplomats. In Basfar v. Wong, UK's SC in a landmark judgment held that employment that is a type of modern slavery—whether it be forced labor, servitude, or trafficking—is a commercial activity done for one's own gain and therefore an exception to diplomatic immunity. This challenges the concept of immunity under VCDR from its very core and prevents diplomats from committing such crimes without any accountability.

Currently, Persona non grata under VCDR's Art.9 is the only sanction against a diplomatic agent associated with the receiving state expelling them. As amendments to the VCDR are infeasible, the sending and receiving states should cooperate to prevent crimes by diplomats and ensure the prosecution of serious crimes.

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