ILS Centre for International Law Newsletter

Vol. XXII No. I Pages 13 | ILS Law College, Pune | 30 September 2024 - 15 October 2024

Fighting the Shadows: UNTOC as a Global Framework for Securing Against Transnational Organized Crime

- Criminal Law Cell

How can the international community fight crime that transcends borders and jurisdictions? Transnational Organised crime is a multifaceted threat that impacts almost every nation. Whether it is human trafficking, drug smuggling, or cybercrime, criminal networks are growing increasingly sophisticated. Transnational organised crime is a massive industry. In 2009, it was estimated to generate around $870 billion, which is about 1.5% of the global economy. To put that in perspective, it's more than six times the total amount of international development aid given that year, and almost 7% of the value of all the goods traded around the world. In response, the United Nations Convention against Transnational Organized Crime (UNTOC), also known as the Palermo Convention is seen as a global framework for international cooperation, to tackle these widespread criminal activities. The United Nations Convention against Transnational Organized Crime (UNTOC) was adopted in 2000, as a primary international legal instrument designed to combat transnational organised crime. The three protocols of UNTOC on human trafficking, smuggling of migrants, and illicit manufacturing and trafficking of firearms offer countries a structured legal framework to collaborate and share information. The Convention is pivotal because it strengthens law enforcement cooperation by providing tools for extradition, mutual legal assistance, and joint investigations, which are crucial in curbing cross-border criminal operations.

Undertaking a Transnational Organized Crime Threat Assessment (TOCTA): The United Nations Office on Drugs and Crime (UNODC) plans to conduct a comprehensive assessment of transnational organised crime in South Asia, known as TOCTA. This initiative aims to achieve three main objectives:
Firstly, describe the primary types of transnational organised crime affecting Bangladesh, Bhutan, India, Nepal, Maldives, and Sri Lanka. This includes analysing their scale, trends, and how they operate (who is involved, methods used, what is trafficked, where activities occur, and when they occur). Secondly, identify gaps in

Upcoming Activities

Webinar on 'The Role of Transitional Justice in the Context of Counter-Terrorism: Opportunities and Challenges

In this webinar, the new UN Special Rapporteur, Prof. Bernard Duhaime will explain his approach to the promotion of truth, justice, reparation, and guarantees of non-recurrence. Afterwards, a panel of counter-terrorism experts will examine the relevance of transitional justice for counter-terrorism. For more information, see here.

ILS Centre for International Law Newsletter

Vol. XXII No. I Pages 13 ILS Law College, Pune 30 September 2024 - 15 October 2024

knowledge, data availability, and resources that hinder the effective detection and monitoring of illegal markets across South Asia.

Thirdly, develop recommendations to improve the quality, accuracy, reliability, and timeliness of data collection. These enhancements are crucial for strengthening the capacity of South Asian countries to prevent and combat transnational organised crime effectively.

Lastly, this assessment will be conducted by the UNODC's Research and Analysis Branch, drawing on official statistics, relevant literature, and insights from local, regional, and global experts and stakeholders

Although the UNTOC provides a solid framework for combating transnational organised crime, it still faces challenges in practice. One of the biggest hurdles is that its enforcement varies from country to country, largely due to differences in legal systems and a lack of political will. In some regions, corruption and weak law enforcement further weaken efforts to tackle organised crime effectively. Geopolitical conflicts complicate international cooperation, making it harder for law enforcement agencies to track and break down global criminal networks.

Despite these challenges, the UNTOC remains a key tool in the fight against transnational crime. However, its success depends on stronger global collaboration and the commitment of individual nations. As organised crime evolves, the global community must refine its strategies and improve how the convention is enforced. Only by working together can we effectively combat the growing threat of transnational organised crime and ensure a safer future for everyone.

Employing Commercial Arbitration to Address Israeli-Palestinian Business Conflicts

- ILSCA Arbitration cell

The Israeli-Palestinian conflict has been coloured with territorial and political disputes, but a regularly disregarded facet of this extant strife is the economic difficulties faced by both sides. Despite the political conflict, commercial interactions between Israeli and Palestinian businesses continue, while being surrounded by mutual scepticism and legal doubts. The establishment of the Jerusalem Arbitration Centre ("JAC") in 2013 was, therefore, an avant-garde

Upcoming Activities

Call for Papers for the Asian International Arbitration Journal

The *Asian International Arbitration Journal (AIAJ)* publishes articles, judgments notes, awards, legislation updates and book reviews on issues in international arbitration in the Asia-Pacific region. . The AIAJ is the flagship journal of the Singapore International Arbitration Centre. Submissions for the March 2025 issue must be received on or before 1 December 2024. For more information, see here.

ILS Centre for International Law Newsletter

Vol. XXII No. I Pages 13 | ILS Law College, Pune | 30 September 2024 - 15 October 2024

attempt to address this challenge. It strives to be an impartial international avenue for settling commercial disputes. The enterprise not only refines economic relations but could also prove to be a catalyst for international cooperation.

The historical strife between Israel and Palestine escalated with the establishment of Israel in 1948, resulting in the displacement of Palestinians and a concatenation of military assaults. Despite this, economic relations between the two nations have persisted with their commercial transactions reportedly surpassing $4 billion annually. These transactions, however, have been hindered by mutual discord, with businesses' reluctant participation in cross-border transactions due to apprehensions about the enforceability of contracts and legal verdicts.

Businesses in Israel fear they will not be met with fair treatment in Palestinian courts, and vice-versa. The said unpredictability has naturally deterred investments and hampered economic growth in the region. Hence, the need for an impartial and reliable commercial dispute resolution mechanism has long been manifest.

As a response to the aforementioned challenges, the JAC was set up as an alliance between the International Chamber of Commerce ("ICC") Israel and ICC Palestine. JAC acts as an avenue for Israeli and Palestinian businesses to resolve commercial disputes without prejudices feared to be affiliated with the national courts. The arbitral proceedings follow established international legal standards, governed by French law, which in turn, appends legitimacy and objectivity to the proceedings. Moreover, Israel and Palestine agreed upon East Jerusalem, a city holding historical, cultural, and political importance for both nations, as the place where all the hearings shall occur.

The centre's jurisdiction has a $7 million cap. Claims larger than $7 million shall be dealt with by the ICC Paris. While experts believe that the JAC is capable of handling larger disputes, critics contend that the ICC gains monetary benefits from these curtailments, as fees are determined by a claim's value. The said ceiling was meant as a protection against under-skilled arbitrators but this could pose a problem as the JAC matures.

Additionally, JAC's arbitration

Upcoming Activities

Call for Papers for a Special Issue on "Mergers and Acquisitions (M&A) Disputes and International Arbitration"

This special issue of the Transnational Dispute Management (TDM) in cooperation with Arbitral Women will look into the vibrant M&A arbitration world. This issue will be divided into two parts. One, will deal with current challenges such as War in Ukraine and Sanctions in M&A Disputes and the other will deal with aspects such as means of Dispute Settlement in M&A Transactions. Abstracts should be submitted at the earliest while final papers should be submitted by 30 November 2024. For more information, see here.

ILS Centre for International Law Newsletter

Vol. XXII No. I Pages 13 | ILS Law College, Pune | 30 September 2024 - 15 October 2024

framework is in consonance with international norms, pertinently the principles of the New York Convention on the Recognition of Foreign Arbitral Awards 1958. This guarantees that the arbitral awards rendered by JAC can be seamlessly enforced in both Israel and Palestine, along with the other signatory countries. The appropriation of the French arbitration law separates the settlement process from political influences, strengthening its neutrality and appeal to international investors.

The JAC is an instrumental step in revamping Israel-Palestine relations, however, success will depend on multiple factors. The mutual distrust between the two sides remains the foremost issue. Years of wars have imprinted incredulity on both sides, and it will take time for businesses to accept JAC. Mutual efforts and willingness will be needed to submit conflicts to JAC and consequently, respect its verdict. While Israel has a robust legal system, Palestine's does not, owing to decades of political volatility and instability. This will affect resolution of disputes between the two nations. This is where the JAC's considerable potential lies.

The JAC assures to provide an impartial forum for commercial dispute settlement. It would lead to the region being viewed as an arbitration-friendly one, which will expedite economic investments. Despite its infancy, the use commercial arbitration to resolve disputes between the two most conflicting nations promises to be an ambitious but also a highly constructive project. If the JAC attests its effectiveness, the benefits will be two-fold—effective dispute settlement and stability; which the region has seldom seen. This could be a precursor for political-economic cooperation between Israel and Palestine, bringing back semblance of security and becoming a testament for the efficient use of arbitration.

International Law and Gender-Based Violence: A Quick Overview

- Gender Studies cell

How pervasive Gender based violence is?

Gender inequality seeps into every corner of society, affecting women & gender minorities in countless ways. Intersectionality deepens this issue, as marginalised women—those from lower economic backgrounds, minority ethnicities, and LGBTQ+ groups— face layered

Upcoming Activities

IEA- WB Webinar on Gender Norms and the Law

The International Economic Association (IEA) in collaboration with the World Bank(WB) is hosting a 2- Day Conference on Gender Norms and the Law on October 24 and 25, 2024. The Conference will cover topics such as how Laws and Social Norms Interconnect to Shape Gender Equality and the Effects of Pregnancy-Discrimination Laws. For more information, see here.

ILS Centre for International Law Newsletter

Vol. XXII No. I Pages 13 | ILS Law College, Pune | 30 September 2024 - 15 October 2024

discrimination. From the corporate world to classrooms, family roles to legal systems, gender bias is evident. In Iraq, restrictive laws limit women's access to education, while restrictions on bodily autonomy due to the recent abortion laws in the United States, undermine women's control over their own bodies, all of which showcases how these biases manifest globally.

Gender Based Violence as a weapon:

GBV includes sexual, physical, mental and economic harm linked to gender, inflicted in both public & private spheres. It encompasses threats, coercion and manipulation. Be it the normalisation of spouse battering or grave instances of corrective rape, GBV is not a new phenomenon and spans across time and cultures. Historical examples, such as the practice of Jauhar in medieval India, shows how women's bodies were weaponized in conflicts, where Rajput women would commit mass self-immolation to avoid capture, sexual slavery, or rape by the victors to protect their honor and that of their community from invading armies.

In modern conflicts, the breakdown of law & order, enables widespread violence Sexual and Gender based violence (SGBV) on civilians, with women & girls more vulnerable to different forms of sexual abuse, forced pregnancy, female genital mutilation & trafficking. Notorious examples include the mass rapes of women during World War II such as the "Rape of Nanking" in 1937 by Japanese forces and the assault of German women by Soviet troops. Similarly, the 1990s Bosnian war used systematic rape as an instrument of ethnic cleansing, while Rohingya women in Myanmar endured systematic rape in front of family members by military forces as psychological warfare. These acts reflect a broader pattern of using sexual violence to punish and terrorize enemy populations.

Though SDG 5 targets the elimination of violence against women, recent conflicts in Syria & Myanmar have highlighted how women and children are disproportionately impacted, facing exploitation, trafficking, & severe loss of autonomy, all in violation of the International Law. Treaty law being the supreme source of international law, two of

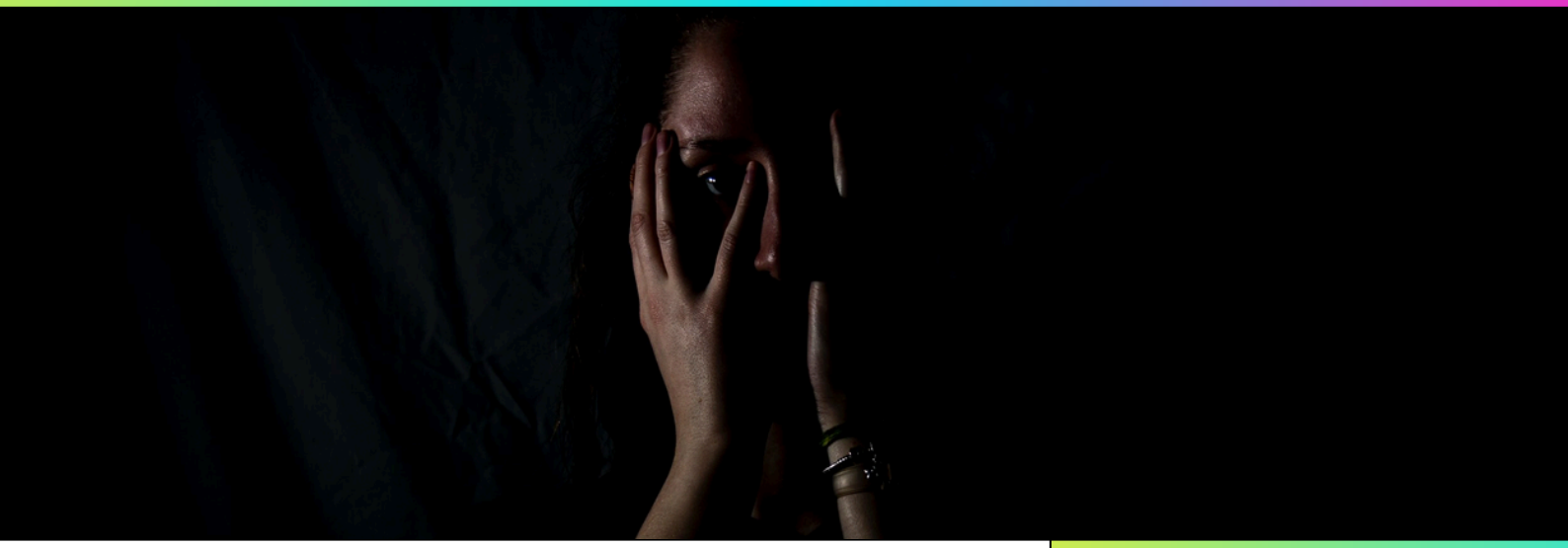
Upcoming Activities

Call for papers: Seminar on 'Law's Role in Shaping and Responding to Disability and Motherhood'

This hybrid one-day event will be hosted by the School of Law at the University of Reading on 19 March 2025. It will explore issues affecting disabled women and mothers in justice systems across family, health, mental capacity, and public and administrative law. The last date for submission of abstracts is 6 December 2024. For more information, see here.

ILS Centre for International Law Newsletter

Vol. XXII No. I Pages 13 | ILS Law College, Pune | 30 September 2024 - 15 October 2024



them which established the foundation for non-discrimination in international law are the International Covenant on Civil and Political Rights 1976 & Convention on the Elimination of All Forms of Discrimination against Women 1979 (CEDAW), ratified by 188 countries, requires states to eliminate discrimination against women by creating new laws or by modifying the existing laws. Several states have developed regional treaties in relation to GBV. Further, the Rome Statute 1998 established the International Crime Court which explicitly does not connect sexual violence to genocide. However, it agrees that acts like rape can be part of the larger pattern of destroying a group, and in such cases, may be charged as genocide.

An important aspect is the development of the due diligence principle: making the government responsible for the actions of their own agents, protection of women from all forms of violence & ensuring that justice is served. The European Court in the case of Opuz v Turkey held the state's failure to exercise due diligence & to perpetuate gender discrimination. There also have been instances where such perpetrators have been convicted by states or international bodies, for example the historical Koblenz trial which was the world's first criminal prosecution of state-sponsored torture in Syria and sentenced former Syrian colonel Anwar Raslan to life imprisonment in connection to the torture of over 4,000 people and several cases against humanity.

War's impact extends beyond violence and gender influences social, economic, & political outcomes too. Excluding women from peace negotiations marginalises them, perpetuating inequality in post-conflict governance and non-conflict zones. In South Africa & Uganda the high rates of GBV include "corrective rapes" aimed at LGBTQ+ women, particularly lesbians often condoned by local authorities. Similarly, in Nigeria (2020-2023), the militant group Boko Haram has continued to instrumentalise SGBV for control and subjugation by coercing many women into bearing children for the fighters. While the implementation of laws has helped in reducing the prevalence of GBV, legal measures alone will not eliminate GBV. Lasting change requires us to challenge and

Upcoming Activities

Online Seminar on How to Gender the Private and Public Divide in International Law

This session investigates the engagement of women's rights in international law. By looking at the critical relationship between family/household, market, and the state, and the fundamental role international law has played in implementing a specific economic vision through the organization of gendered power relations, the session aims to disrupt this binary. The session will be held on 19 November 2024. For more information, see here.

ILS Centre for International Law Newsletter

Vol. XXII No. I Pages 13 | ILS Law College, Pune | 30 September 2024 - 15 October 2024

reshape the traditional social norms that have been internalised by individuals.

Cyber Attacks Without Consequence: The Hidden Dangers of Ignoring State Responsibility

- Centre for Technology, IP & Media

Attributing responsibility for cyberattacks presents profound challenges within the domains of international law and cybersecurity. In an era where state and non-state actors increasingly leverage cyber capabilities to pursue strategic objectives, it is imperative for states and international organizations, such as the European Union (EU), to formulate effective responses to these threats. The EU has established mechanisms allowing it to impose sanctions on individuals and entities responsible for cyber operations deemed harmful to the security of the Union and its member states. However, these frameworks intentionally eschew direct attribution of responsibility to foreign states, which complicates the broader legal and diplomatic landscape.

The complexities of cyber attribution stem largely from the inherent anonymity of cyberspace. Cyberattacks often exploit the digital environment's obscurity, allowing perpetrators to obscure their identities through various techniques, such as employing intermediary servers or utilizing malware that misleads forensic investigations. For instance, an attacker can launch an operation from a compromised third-party network, making it challenging to trace the attack back to its origin. This technical challenge is further exacerbated by the political ramifications of attributing cyber activities to specific state actors; public accusations can escalate diplomatic tensions and risk retaliatory measures.

The EU's approach, as codified in its sanctions frameworks, reflects this nuanced understanding of cyber operations. While the EU can impose sanctions against identifiable individuals or entities implicated in cyber activities, it refrains from attributing these acts to specific nation-states. This cautious approach enables the EU to take decisive action against malicious actors while avoiding the complexities and potential fallout associated with directly accusing a state of orchestrating cyber

Upcoming Activities

Call for Proposals- The Cyber Law Toolkit

The *Cyber Law Toolkit* is inviting submissions for its September 2025 edition and submissions should not be more than 500 words. Participants should provide a hypothetical cyber incident inspired by real-world scenarios and the applicability of International Law to these scenarios. Authors of selected proposals will develop full-length scenarios (3000-4000 words) and receive an honorarium of 750 Euros. The deadline for submission of proposals is 15 November 2024. For more information, see here.

ILS Centre for International Law Newsletter

Vol. XXII No. I Pages 13 | ILS Law College, Pune | 30 September 2024 - 15 October 2024

operations. For example, sanctions may target known hacker groups believed to act under the direction of a foreign government, but the EU stops short of publicly implicating that government. This allows the Union to maintain diplomatic relations while demonstrating its commitment to cybersecurity.

However, this reticence to engage in direct attribution has significant repercussions. The lack of a clear legal framework for attributing responsibility to states for cyberattacks undermines efforts to establish norms of behavior in cyberspace. The absence of accountability may embolden state-sponsored cyber actors to engage in more aggressive and disruptive activities, as they face little risk of repercussions from the international community. Moreover, without consistent attribution, states may resort to unilateral responses to cyber incidents, heightening the risk of escalation into broader conflicts.

International law principles such as state sovereignty and the prohibition of the use of force are theoretically applicable to cyberspace. However, their interpretation in the digital context is fraught with ambiguity. This ambiguity leads to a hesitance among states to formalize protocols surrounding cyber attribution, given the risks of misinterpretation and the potential for unintended consequences. Cyber operations that result in significant disruptions—such as attacks on critical infrastructure—can rise to the level of a "use of force" under international law, yet determining whether a cyberattack constitutes such a violation remains a contentious issue.

In summary, while the EU's framework for imposing cyber sanctions represents a significant step toward addressing the multifaceted challenges posed by cybersecurity threats, the strategic avoidance of direct state attribution underscores ongoing difficulties in applying international law to cyber operations. A robust and universally accepted framework for cyber attribution is essential for establishing stability and accountability within the global digital landscape, ensuring that states can effectively respond to cyber threats without resorting to arbitrary or inconsistent actions. Developing such a framework will necessitate international

Upcoming Activities

Call for Papers for the International Conference on 'Law, Technology and Sustainable Development'

Participants are invited to critically analyse law, technology, and sustainable development treaties, protocols, policies, and other instruments at international and domestic levels. In addition, the participants are encouraged to present country or region-specific studies on the enforcement success or failure of various laws and policies related to the regulation of technology for sustainable development in the environment, technology, biodiversity, energy, intellectual property rights (IPR), trade law, etc. The conference is to be held on 7th -9th March 2025. For more information see here.

ILS Centre for International Law Newsletter

Vol. XXII No. I Pages 13 | ILS Law College, Pune | 30 September 2024 - 15 October 2024

collaboration and a shared commitment to enhancing the rule of law in cyberspace.

EU Mulls Tariffs on Chinese Electric Vehicles: A Pivotal Trade Decision

- Centre for Commercial Laws

In a crucial development within the realm of international trade, member states of the European Union (EU) have participated in an advisory vote concerning the imposition of tariffs on electric vehicles (EVs) imported from China. This decision has the potential to significantly alter the automotive industry landscape, as the EU contemplates its stance on Chinese imports amid intensifying market competition and escalating geopolitical tensions.

The European Commission had set a deadline for the 27 EU nations to declare their positions by July 15, marking this issue as one of the most high-profile trade cases the EU has encountered to date. While the results of the vote remain confidential, the outcome could play a decisive role in shaping the Commission's final verdict. The Commission has already enacted provisional countervailing duties of up to 37.6% on EVs manufactured in China, demonstrating its firm stance against what it perceives to be unfair trade practices.

Divergent Priorities Among EU Member States:

The prospect of tariffs on Chinese EVs has not been universally accepted among EU member states. According to insiders, Italy and Spain have expressed support for the duties, likely aiming to safeguard European automakers from the influx of lower-cost Chinese EVs. For these nations, endorsing tariffs aligns with their objectives of protecting domestic jobs and preserving the competitiveness of prominent European car manufacturers, including Volkswagen, Renault, and Stellantis.

Conversely, Sweden has adopted a more neutral approach, with its Minister for International Development Cooperation and Foreign Trade, Johan Forssell, indicating that the country intends to abstain from the vote. Sweden's abstention likely reflects its commitment to free trade principles and its desire to avoid exacerbating tensions with China. These diverging perspectives highlight the intricate challenge of

Upcoming Activities

Call for Papers for the Electronic Markets Journal on "Regulatory Competition and Global Governance in Digital Markets"

The Electronic Markets journal has announced a call for papers for a special issue on "Regulatory Competition and Global Governance in the Digital Economy." Participants are encouraged to explore the impact of the EU's regulations on the digital markets such as EU's Digital Markets Act on companies doing business in Europe. For more information, see here.

ILS Centre for International Law Newsletter

Vol. XXII No. I Pages 13 | ILS Law College, Pune | 30 September 2024 - 15 October 2024

reconciling national interests with the overarching policy objectives of the EU.

The Path Forward for Tariffs:

The European Commission will now take the advisory vote into account before making its final determination on whether to impose definitive duties on Chinese EV imports. Should the tariffs be implemented, they could remain in effect for five years, with the possibility of extension, thereby potentially transforming trade relations between the EU and China within the automotive sector.

The implications of this decision are far-reaching. For the EU, the stakes involved not only the protection of its domestic industry but also the need to address concerns related to market distortions and subsidized competition. For China, the decision could impact its strategic approach to the European market, where Chinese EV manufacturers have already made significant headway with their competitively priced offerings.

As the EU prepares for a binding vote within the next four months, the outcome will be closely watched. The decision will ultimately influence the EU's ability to balance trade policy, geopolitical dynamics, and the future of sustainable mobility in an increasingly competitive global marketplace.

Citizenship Act, 1955- Integrating Choice As A Constitutional Concept With Volitional Citizenship

- Centre for Public Law

A year ago, a two judge bench of the Supreme Court comprising A.S. Bopanna and M.M. Sundresh JJ., had issued notice to the Union of India in a petition filed by Professor Tarun Khaitan; a noted Constitutional scholar and Public Law Chair at the London School of Economics. The petition has challenged the constitutionality of the provisions of the Citizenship Act, 1955 that automatically terminates Indian citizenship upon acquisition of another citizenship.

What Is Volitional Citizenship

The traditional tenets of citizenship vis-a-vis international law have focused on the continuities of space, identity, and nationality. It is

Upcoming Activities

Call for Papers - Journal of International Trade Law and Policy

JITLP welcomes submissions that contribute to understanding international economic policy and the institutional/legal architecture in which it is implemented. Submissions can be conceptual (theoretical) and/or empirical and/or doctrinal in content. For more information see here.

ILS Centre for International Law Newsletter

Vol. XXII No. I Pages 13 | ILS Law College, Pune | 30 September 2024 - 15 October 2024

submitted that the jurisprudence of genuine link established by the International Court of Justice in the Nottebohm case was rested upon these continuities to alter the international law of citizenship, which was abstract to the extent that it examined citizenship in the context of the connection and relationship an individual has with its nation.

Leichtesten vs Guatemala which laid down the test for genuine link in international law was delineated as a "genuine connection of existence, interests and sentiments, together. with the existence of reciprocal rights and duties" Insofar as citizenship is so understood, its delimitation can no longer turn on traditional membership criteria of genuine link, which collides with other norms of both liberal democracy and international law. The result should be a new international law of citizenship. Although international law has regulated nationality practice as a matter of conflict of laws, it has largely demurred from dictating to states the terms of their membership rules.

Peter Spiro in his work A New International Law of Citizenship, emphasizes that international law should protect an individual's right to maintain multiple nationality, which is a product of their volition, and choice. These and other elements of a new regime relating to citizenship practice are emerging through multiple channels of decentralized international lawmaking. It is submitted in this regard that this transition in international law which is indicative of 'democratization of naturalization' has reconceptualized citizenship status from an identity orientation to a rights orientation.

This reconceptualization predominantly denotes a shift from viewing citizenship as a formal tie between the individual and their State to the iteration of an individual's choice and liberty and hence falls within the ambit of volitional citizenship. Spiro categorically states that the new international law of citizenship is centered around the individual interests and the sovereignty of states to recognize citizenship in any form.

An application of the concept of volitional citizenship can be found in Warsame vs Canada. The UNHRC elucidated the phrase 'own

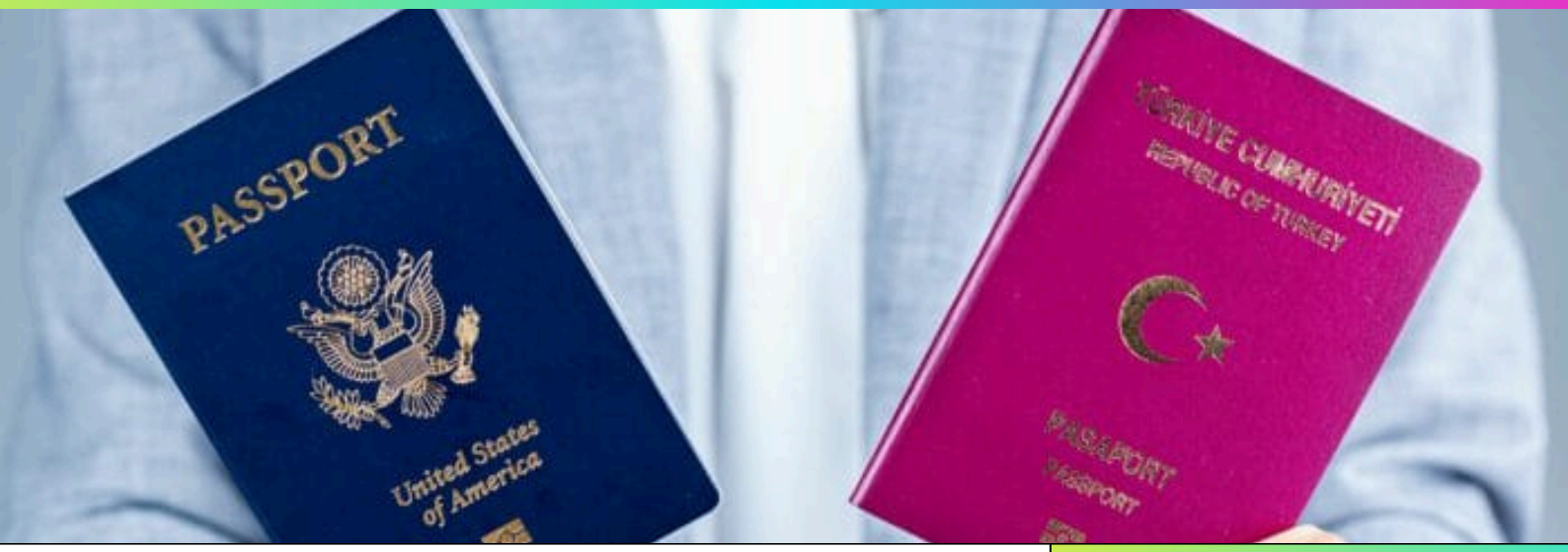
Upcoming Activities

Online Seminar - Henry J. Abraham Distinguished Lecture: Justice Stephen Breyer on 'Reading the Constitution':

The 24th annual Henry J. Abraham Distinguished Lecture features retired Associate Justice of the Supreme Court of the United States Stephen Breyer, which will happen on Thursday, October 17, 2024, 11 a.m.-12 p.m.. He joins Barbara Perry, the Miller Center's Gerald L. Baliles Professor of Presidential Studies and co-director of the Presidential Oral History Program, and Risa Goluboff, former UVA Law dean and the David and Mary Harrison Distinguished Professor of Law, for a wide-ranging conversation on Justice Breyer's new book, "Reading the Constitution: Why I Chose Pragmatism, Not Textualism." Together they will discuss Breyer's judicial philosophy through an examination of some of the court's most historic cases. For more Information see here.

ILS Centre for International Law Newsletter

Vol. XXII No. I Pages 13 | ILS Law College, Pune | 30 September 2024 - 15 October 2024



country' from Article 12(4) of the ICCPR. A country is a country in light of, the presence of his family in Canada, the language he speaks, the duration of his stay in the country and the lack of any other ties than at best formal nationality with Somalia. These characteristics were deemed to influence the volition aspect of citizenship. But not once did the terms of genuine link and social fact of attachment appear. Thus the Warsame case pursuant to volitional citizenship, talks about the legal recognition by a State of residence and citizenship and the personhood aspect of it.

Indian Constitutionalism And Volitional Citizenship

So far as the doctrinal relation between Indian Constitutionalism and volitional citizenship is concerned, it is best highlighted by the expression 'the right to have rights'. Indian constitutionalism emanates through Part III of the Constitution. The concept of choice forms an intrinsic part of our constitutional morality which have been accorded as fundamental rights in the Puttaswamy judgment for they are the natural rights that inhere in every individual. It hence becomes imperative to note why choice, which the international law of citizenship accepts is relevant while understanding citizenship in a municipal context. The right to have rights is clinical herein to the extent that volitional citizenship becomes an important instrument of international human rights law to accord citizenship to an individual who wants to be naturalized as a citizen of a country in order to exercise the rights that the Constitution provides.

In specificity to Indian constitutionalism, volitional citizenship has to be viewed as a principle of international law that permits dual citizenship and does not lead to extinguishment of the fundamental rights under Part III and the ability to exercise them. It is argued that forcing an individual to divest their fundamental rights on the ground that they get naturalized as citizens of another country by choice is hence unconstitutional. It also compels the individual to shed their Indian citizenship by the virtue of Section 9 which may not be the choice of the individual.

And the Indian Constitution so far as Article 9 is concerned, does not involuntarily terminate the Indian citizenship because the articles

Upcoming Activities

Call for Papers - Sri Lanka Journal of Public Law

The Sri Lanka Journal of Public Law (SLJPL) is an international, anonymized, peer-reviewed journal published by the Department of Public and International Law of the Faculty of Law, University of Colombo, Sri Lanka. This journal aims to provide an opportunity to publish and disseminate research findings of local and overseas legal scholars. Two types of contributions are available for the authors: Research articles and Commentaries. The deadline for submissions is 06th November 2024. For more information see here.

ILS Centre for International Law Newsletter

Vol. XXII No. I Pages 13 | ILS Law College, Pune | 30 September 2024 - 15 October 2024

DUAL CITIZENSHIP

prior to that deal with citizenship status at the time of commencement of the Constitution. Dr. Ambedkar while introducing this article in the Constituent Assembly had issued a caveat that the object of this article is not to lay down a permanent law of citizenship.

Citizenship Act, 1955- The Importance Of Prof. Khaitan's Petition

Section 9 of the Citizenship Act, stipulates that after voluntary acceptance of the citizenship of any other country, the individual shall no longer remain the citizen of India. By doing so, it bars volitional citizenship as a principle of international law which has been accepted by our Grundnorm, i.e. the Constitution. Hence, the petition to declare Section 9 as unconstitutional is of paramount importance.

The petition underscores that "involuntary termination of citizenship is not only unconstitutional, it also militates against the values of the Indian constitutional ethos and violates international law. Such termination leads to involuntary deprivation of the "right to have rights" which is akin to exile and, therefore, one of the harshest consequences the law can visit upon an individual for a non-criminal act".

Thus, it is concluded that integrating volitional citizenship as a principle within the legal framework of the Citizenship Act, 1955 will reduce the monopoly of actions which State is empowered to take with respect to citizenship of individuals; the assessments of which tend to be arbitrary, discretionarily abused and uncertainty applied.

Upcoming Activities

Call for Submissions - The Baxter Family Essay Competition on Federalism 2024-2025

McGill University's Faculty of Law and the Peter MacKell Chair in Federalism are proud to announce that the Baxter Family Competition on Federalism has returned for a fifth edition.

The Essay Competition seeks to promote informed debate on federalism by students and young professionals from around the world. The Competition is open to law and political science students/PhD candidates, junior scholars and practitioners who graduated in these disciplines. Deadline for submission of essays: February 7th, 2025, at 11:59 pm, Eastern Standard Time. For more information see here.