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THE FOUNDATIONS OF STATE RESPONSIBILITY IN INTERNATIONAL LAW: AN IN-DEPTH ANALYSIS OF KEY PRINCIPLES AND NORMS

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Abstract: This article aims to explore the foundational principles and norms governing the responsibility of states in international law, with a focus on the legal frameworks outlined by the International Law Commission's Articles on State Responsibility. It seeks to deepen the understanding of state accountability and its implications for international relations. The study utilizes a comprehensive review of case law, scholarly interpretations, and legal frameworks to examine key concepts such as internationally wrongful acts, state liability, reparations, and compensation mechanisms. The research also considers the interplay between state sovereignty and international obligations. The analysis reveals the challenges states face in adhering to their international legal commitments, particularly regarding the protection of human rights and the resolution of international disputes. It also highlights the complexities in balancing state sovereignty with legal accountability. This article contributes a deeper understanding of state responsibility within the broader context of international relations, emphasizing the need for legal accountability in fostering stability and justice in the international community. It provides a nuanced perspective on how state responsibility operates in contemporary international law.

Keywords: State Responsibility, International Law, International Subject, Internationally Wrongful Acts, Legal Frameworks

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Introduction

State responsibility is a core principle in international law, rooted in the characteristics of the international legal system, as well as the doctrines of state sovereignty and equality. It asserts that when one state commits an unlawful act against another, it triggers a situation of international responsibility between them. Specifically, a violation of an international obligation necessitates that the offending state provide reparations for the harm caused [1]. This principle emphasizes the need for accountability and the obligation to make amends in the international community.

International legal responsibility refers to the legal consequences arising for an international legal subject that violates international legal norms and its own international obligations. At the same time, it serves as one of the legal mechanisms for ensuring compliance with these norms and compensating for the resulting damages. The legal consequences arising from breaches of treaty or customary international law can impact not just the state at fault but also the state or group of states that have suffered harm, along with other nations and international organizations. The nature and

extent of these repercussions and types of responsibility can differ widely, shaped by the specifics and seriousness of the violation. They may include:

- a) Responsibility for acts of aggression, genocide, racial discrimination, colonial oppression, and violations of the laws and customs of war.
- b) The obligation of the offending state to compensate the damages inflicted on other subjects of international law, including specific legal and natural persons.
- c) The imposition of coercive measures against the offending state, potentially extending to the deployment of UN forces in response to its violations, as outlined in Article 42 of the UN Charter, among other actions [2].

The concept of international legal responsibility for states has been established for a long time. Although there are norms regarding compensation for damages inflicted upon a state, traditional international law frequently restricted liability to reparations for harm done to individuals and foreign property, as seen in the 1907 Hague Convention concerning the peaceful resolution of international disputes. However, before the 20th century, international law lacked a comprehensive grasp of aggression and the notion of "responsibility for war," complicating the relationship between the legal ramifications of war and its fundamental causes [3]. With the decline of colonialism and the rise of numerous developing countries, the framework of international legal responsibility underwent significant qualitative transformations. As a result, issues of accountability for acts of aggression, genocide, apartheid, racial discrimination, and the denial of independence to colonized peoples gained prominence. The enforcement of laws related to warfare became more rigorous. Outdated concepts like "the right to wage war" and "victor's rights" have become obsolete, while the nature of punitive measures against offending states has evolved, giving rise to new subjects of international legal responsibility, including intergovernmental organizations [4].

The challenges surrounding the international legal accountability of various entities have been codified in multiple legal documents, such as the UN Charter, conventions against genocide and racial discrimination, the Geneva Conventions of 1949 protecting war victims and their additional Protocols from 1977, the United Nations Convention on the Law of the Sea from 1982, and other essential legal instruments [5]. Additionally, the individual criminal responsibility for actions against peace, humanity, and other international offenses has received global acknowledgment and legal grounding. This accountability is enforceable when the conduct of particular individuals is directly connected to the state's criminal behavior. Such responsibility is illustrated in the rulings of the Nuremberg and Tokyo International Military Tribunals from 1945 and 1946, as well as in conventions related to international crimes [6]. Thus, the elements leading to international legal responsibility for breaches of international law encompass the following components:

1. The acts or omissions of entities that breach international legal standards.
2. The assignment of the violation to the responsible subject.
3. The infliction of damage on another entity or group of entities under international law.

States cannot invoke any national laws or regulations to justify actions that lead to breaches of international legal norms and resulting harm. Furthermore, ignorance of or misunderstanding these norms cannot serve as a valid defense. Almost all violations of international law are committed knowingly and with intent.

The emergence of international legal responsibility is triggered by actions or inactions that contradict legal obligations, executed by state authorities—regardless of whether these actions are taken with the state's authorization or by officials acting on behalf of the state. A state becomes liable

if it fails to prevent actions or incidents that violate international law, despite having legal obligations under international treaties.

International legal responsibility can also arise from actions that occur within the territory of one state, perpetrated by foreign states or their organs. If these actions are conducted with the knowledge and consent of the host state, the host state also becomes a participant in the foreign state's unlawful activities. However, if these actions occur without the host state's notification or consent, the host state might only be held accountable due to a failure in oversight, resulting in the foreign state's violation.

The issue of states allowing foreign military bases or arms transfers is treated differently. Their responsibility for any potential harmful consequences is triggered solely by the legal act of granting permission for establishing military bases or deploying weapons. A state's international legal responsibility can also arise from damages inflicted upon foreign states or their legal and physical entities due to misuse of authority by its organs or officials. For example, if a state fails to implement adequate measures to prevent oil spills from a tanker in international waters, it must compensate for the damages incurred [7].

International agreements, including Geneva Conventions(1949) and various treaties that govern the methods and means of warfare, hold states accountable for actions that breach these norms by their officials, military units, or related entities. States are obligated to ensure adherence to the laws of war as outlined in international conventions and agreements through all necessary legal, administrative, and other measures. The responsibility of subjects under international law arises not only from violations of international legal standards or treaty commitments but also from actions that, while not directly contravening international law, lead to harmful effects. Such scenarios can occur when damage arises from particularly dangerous activities that are not explicitly forbidden by international law. Examples of high-risk activities include operations involving nuclear-powered vessels and launched space objects. These vessels navigate freely on the high seas, while space objects are launched in accordance with the Outer Space Treaty (1967), which governs the use and exploration of outer space [8].

In the context of high-risk activities, states are required to provide compensation for damages based on the acknowledgment of the occurrence of damage, rather than solely due to a legal breach (strict liability). As stipulated in Article 2 of The Convention on International Liability for Damage Caused by Space Objects(1972), The state that launches a space object is entirely accountable for compensating any physical damage inflicted by that object on the Earth's surface or in the airspace while it is in flight [9].

Methods

This article employs a comprehensive qualitative analysis of the principles and norms surrounding state responsibility in international law, drawing on primary legal sources such as the International Law Commission's Articles on State Responsibility, case law, and scholarly interpretations. It examines the evolution of international legal accountability through historical and contemporary legal frameworks, with a focus on breaches of treaty and customary international law. The study explores key aspects such as political and material responsibility, reparations, restitution, and compensation measures for wrongful acts, and considers the impact of international conventions, including the UN Charter, Geneva Conventions, and treaties governing warfare. By critically reviewing these legal instruments and their application, the article provides insights into the enforcement of state responsibility and the obligations of states in addressing violations of

international norms, focusing on areas like genocide, racial discrimination, and aggression. The research synthesizes both classical and modern perspectives to illustrate how state responsibility has evolved, particularly in the post-colonial context, and how it continues to shape the international legal order today.

Results and Discussion

State Responsibility: Consequences and Classification of International Wrongful Acts

The types of states' international legal responsibility are twofold: political and material. Political responsibility typically involves coercive measures applied against the violating state and often overlaps with material responsibility. The most common form of political responsibility is sanctions. Sanctions are measures imposed on the violating state, which can be applied by international organizations (universal and regional), a group of states, or an individual state. The scope and types of sanctions depend on the severity of the offense. For example, the following coercive measures may be applied against an aggressor state: temporarily restricting its sovereignty; detaching a part of its territory; post-war occupation; depriving it of military forces and reducing or prohibiting its armed forces; limiting the jurisdiction over individuals accused of committing military crimes against peace and humanity; and others.

The UN Charter outlines sanctions for threats to international peace and security in Articles 39, 41, and 42. Sanctions are applied only when serious international crimes have been committed. Applying them in other situations is not appropriate, as sanctions are, in fact, a response to deliberately committing actions that violate international law or intentionally causing harm. After World War II, specific types of political and material responsibility were established for aggressor states. For example, after Germany's complete surrender, according to the Declaration of June 5, 1945, the Allied states took on the supreme authority, disarmed Germany, prohibited it from having military forces, dissolved Nazi organizations, and banned their future activities. An occupation regime was established in Germany.

Material (economic) responsibility arises from the violation of international obligations that lead to material harm caused by a state. This can be expressed in forms such as reparations, restitution, and substitution. Reparations refer to compensating material damage in monetary terms, goods, or services. The amount and type of reparations are usually determined based on international treaties. Typically, the reparations sum is significantly less than the amount of damage caused by the war. According to the decisions of the 1945 Yalta Conference, reparations from Germany amounted to \$20 million.

As stated in Article 31 of the Articles on State Responsibility, a state deemed responsible for an internationally wrongful act must provide comprehensive reparations for the damage it has inflicted. This obligation encompasses all types of injuries, including both material and moral damages resulting from the wrongful act. It is crucial to note that this responsibility is solely governed by international law and remains unaffected by any conflicting national laws. Article 34 indicates that full reparation should aim to adequately remedy the injury caused by the wrongful act and may consist of restitution, compensation, or satisfaction, either used alone or in combination as necessary. Restitution involves restoring the situation to its pre-incident state, compensation refers to financial reimbursement for losses, and satisfaction addresses non-material injuries, such as moral damages, through actions like apologies or recognition of wrongdoing.

These reparative measures aim to effectively counteract the consequences of the wrongful act and uphold international legal principles. Restitution involves returning property that has been

illegally seized by a warring state and removed from its original territory. For example, according to the Treaty of Peace (Article 75) between Italy and the Allied States on 10th February, 1947, Italy undertook to return “any property removed from any territory of the United Nations as soon as possible.”

While historically more common, restitution is now less frequently applied, largely due to the evolving nature of disputes. Modern cases often involve issues like expropriation, where returning seized property to multinational corporations can be politically challenging for the state involved. Acknowledging these complexities, Article 35 permits restitution only when it is not materially unfeasible and does not impose an undue burden on the responsible state in relation to the advantages offered by restitution compared to compensation. This provision ensures that restitution is applied fairly and practically, balancing the interests of all parties involved and allowing compensation when direct restitution would be disproportionately difficult or impractical.

In peacetime, property that has been illegally confiscated or retained can also be the object of restitution, even if it is not related to military actions. A variant of restitution is substitution. This involves replacing or compensating for property, buildings, vehicles, works of art, private property, and similar items that have been destroyed or harmed in violation of international law. Types of political responsibility include suspending rights and privileges arising from membership in an international organization (such as voting, representation in the main organs, and rights to aid and services) and, as a last resort, expulsion from the organization.

For international delicts (such as violations of diplomatic etiquette, insincere acts, and breaches of the order for foreigners), forms of political responsibility such as retorsion, reprisal, satisfaction, and restoration may be applied against the state. Retorsion refers to the application of international law-compliant coercive measures by one state against another state that has harmed its interests. Retorsion can also be a specific response from one state aimed at restoring violated rights in response to certain unfriendly actions by another state. Examples of retorsion include recalling an ambassador from the unfriendly state, imposing entry bans on that state, or canceling delegations' visits.

Reprisal (non-military) involves coercive actions taken by one state against another. It is implemented to restore violated rights in response to illegal actions by the second state. Reprisals must correspond to the damage inflicted and be proportionate to the coercive measures applied. Reprisals can manifest as full or partial disruptions of economic relations, railways, maritime, air, postal, radio, and other types of communication, as well as the suspension of diplomatic, trade, and other relations. They may also include imposing embargoes on the export of goods and raw materials from the violating state. Once satisfaction is achieved, reprisals must cease. Modern international law prohibits armed reprisals aimed at resolving disputes and disagreements (Article 2, paragraph 3 of the UN Charter).

Satisfaction refers to actions taken by the violating state to address the grievances of the injured state, which may include formal apologies, expressions of regret, assurances against future violations of international law, and gestures of respect such as honoring the flag of the injured state or performing its anthem. Satisfaction represents a third category of reparation, focusing on non-monetary compensation. This form of reparation may involve various actions such as issuing official apologies, punishing responsible minor officials, or formally acknowledging the unlawful nature of the act in question. By providing satisfaction, a state not only addresses the harm caused by its wrongful conduct but also seeks to restore dignity and uphold the rule of law. This acknowledgment can play a vital role in fostering reconciliation and preventing future violations, demonstrating the

state's commitment to accountability and justice.

Article 37 of the ILC Articles states that a state deemed responsible for a wrongful act must offer satisfaction for the harm caused, especially when restitution or compensation alone do not adequately address the injury. This type of reparation can take multiple forms, such as acknowledging the violation, expressing remorse, issuing a formal apology, or utilizing any other appropriate method. One alternative approach could involve providing assurances or guarantees to prevent the wrongful act from happening again. By meeting this obligation, a state shows its dedication to accountability and aims to rebuild trust and improve relations with those affected, highlighting the significance of adhering to international legal standards. Another form of responsibility that arises in practice is referred to as restoration, which entails returning a tangible object to its prior condition as a result of the actions taken by offending state (e.g., restoring quality of polluted water due to its fault).

A Comprehensive Analysis of the Draft Articles on Responsibility of States for Internationally Wrongful Acts

The essential characteristics of state responsibility are based on several important elements: firstly, there needs to be an active international legal obligation between two particular states; secondly, there must be an action or failure to act that violates this obligation and can be attributed to the responsible state; and lastly, the violation must lead to a loss or damage arising from the unlawful act or inaction.

These criteria have been underscored in various landmark cases. In the *Chorzów Factory* case, PCIJ (the Permanent Court of International Justice) recognized that it is a fundamental principle of international law – reflecting a broader understanding of legal obligations – that any breach of a commitment necessitates a duty to make reparations. This underscores the relationship between rights and responsibilities within the realm of international law. Likewise, In the claims regarding the Spanish Zone of Morocco, Judge Huber emphasized that responsibility is a crucial counterpart to any right. He noted that all rights of an international character inherently come with the burden of international responsibility. This principle indicates that if the relevant obligation is not met, the party at fault is obliged to provide reparations.

Issues related to state responsibility hold significant importance, and it is a widely acknowledged principle that any party making a claim must provide adequate evidence to support it. EECC (The Eritrea–Ethiopia Claims Commission) has stressed that a standard of "clear and convincing evidence" is essential for determining state responsibility. Likewise, the International Court (IC) has ruled that allegations against state involving "charges of exceptional gravity" must be backed by evidence that is "conclusive and irrefutable".

State responsibility covers a wide range of areas, particularly focusing on unlawful actions or omissions directly committed by a state that have immediate repercussions on other states. Examples of such actions include violations of treaties, infringements on another state's territorial integrity, or damage to state property. A significant incident illustrating state responsibility occurred when Bulgarian fighter jets shot down an Israeli civilian aircraft belonging to the national airline, El Al in 1955. The Nicaragua case further exemplifies this principle, as the International Court of Justice (ICJ) found that the United States was responsible for actions attributed to it, including placing mines in Nicaragua's territorial or internal waters and various attacks on Nicaraguan ports, oil facilities, naval bases carried out by U.S. agents.

In the *Corfu Channel* case, Albania was held accountable for the repercussions of mine-laying in its territorial waters due to its knowledge of the existence of those mines, even though it was not determined who specifically laid them. Additionally, in the *Rainbow Warrior* incident, a

settlement mediated by the UN Secretary-General led to New Zealand receiving approximately \$7 million in compensation for the violation of its sovereignty when French agents destroyed the vessel in New Zealand's waters. Moreover, a state may also be held responsible for the actions of its officials if they cause harm to nationals of another state, regardless of whether those actions were sanctioned by the state's authorities

Alongside the varied practices implemented by states in this area, the International Law Commission (ILC) has invested considerable effort into the subject of state responsibility. In 1975, the ILC made the decision to organize the draft articles on state responsibility into three distinct sections: Part I would delve into the origins of international responsibility, Part II would explore the forms, content, and levels of that responsibility, and Part III would focus on the resolution of disputes and the enforcement mechanisms of international responsibility. The Commission provisionally adopted Part I in 1980, and the complete Draft Articles were formally adopted on August 9, 2001. Additionally, the General Assembly's resolution 56/83, dated December 12, 2001, attached the text of these articles and urged member states to consider them. This distinctive procedural approach highlights the significance of the articles and their potential influence on international legal norms.

Article 1 of the International Law Commission's Articles on State Responsibility reiterates a fundamental principle: every internationally wrongful act committed by a state generates legal responsibility. As outlined in Article 2, an act is considered internationally wrongful when it entails conduct—whether by action or omission—that can be attributed to the state under international law and constitutes a breach of an international obligation owed by that state. This principle is firmly established in judicial precedents, reinforcing the legal framework governing state responsibility in international law.

Article 4 of the International Law Commission (ILC) Articles stipulates that the actions of state organs – defined to include any individual or entity recognized as such under a state's domestic law – are to be regarded as acts of that state in the realm of international law. Provision applies regardless of the specific role the organ fulfills, whether legislative, executive, judicial, or otherwise, and irrespective of its affiliation with the central government or a local authority. This perspective aligns with customary law. ICJ(The International Court of Justice) reinforced this principle in its ruling regarding the immunity of a special rapporteur, stating that the actions of any state organ must be considered as actions of the state itself. Furthermore, in the case concerning the Genocide Convention (*Bosnia v. Serbia*), the ICJ characterized this principle as foundational to state responsibility, confirming that the conduct of a state organ is deemed an act of the state under international law, thus incurring state responsibility if it constitutes a breach of an international obligation. This rule inherently encompasses various governmental units and subdivisions.

In response to the growing number of governmental agencies and parastatal bodies, Article 5 expands the definition of state conduct to include actions taken by individuals or entities that are not classified as state organs under Article 4 but are legally empowered by the state to exercise governmental authority. This provision particularly aims to address situations involving privatized corporations that retain public or regulatory roles. For instance, it might apply to private security firms authorized to function as prison guards or to airlines—whether privately or state-owned—that perform immigration checks, as well as railway companies granted specific police powers.

Issues relevant to Article 5 can arise in scenarios where a state organ or agent is made available to another international legal entity, with both entities exerting control over the organ or agent. This situation is most evident when a state provides military forces to the United Nations for peacekeeping missions, where both the state and the UN maintain certain jurisdiction over the

contingent. A pertinent case illustrating this is *Behrami v. France*, which was presented before the European Court of Justice. The court deliberated whether troops from NATO states, involved in demilitarization efforts in Kosovo as part of KFOR, fell under its jurisdiction or whether responsibility lay with KFOR operating under UN authority, which is not subject to the court's jurisdiction. Ultimately, the Court concluded that because the UN Security Council retained ultimate authority and control—as evidenced by resolution 1244—responsibility for the contested actions fell to the UN, thus precluding jurisdiction over the states involved from the perspective of the European Court.

Article 6 further specifies that the conduct of a state organ provided by one state to another is considered an act of the latter under international law, as long as the organ operates within the scope of governmental authority of the lending state. This could encompass situations like the UK Privy Council acting as the highest judicial authority for specific Commonwealth nations, illustrating the interconnectedness of state responsibilities and the complexities arising in international law.

Article 7 of the International Law Commission's Articles establishes that the actions of an organ, person, or entity authorized to perform governmental functions are deemed acts of the state under international law, regardless of whether these actions exceed their authority or violate directives. This provision sets forth a principle of strict liability, which is not constrained by the mere appearance of exercising authority. Considering the general acceptance of the objective theory of responsibility, this approach is likely to be the most appropriate. It recognizes that the state's accountability arises from the actions taken under its auspices, even if those actions are not within the defined limits of authority. Thus, the state remains responsible for the outcomes of these actions in the international legal context.

Article 12 specifies that a breach of an international obligation takes place when a state's actions fail to conform to the stipulations established by that obligation, regardless of its nature or origin. Continuous breaches extend for the entire duration that the act is inconsistent with the relevant international obligation, while breaches resulting from a composite act likewise persist throughout the period the act or omission deviates from compliance. Furthermore, a state that assists another in carrying out an internationally wrongful act will also be held accountable, as long as it acted with knowledge of the relevant circumstances and its actions would be considered wrongful if executed by that state itself. It is essential to note that state responsibility can coexist with individual liability, meaning that the two concepts are not mutually exclusive.

Article 8 of the International Law Commission's Articles asserts that the actions of an individual or a group will be deemed acts of the state under international law if they are operating under the instructions or control of that state. While the first aspect of this rule is generally accepted, defining the required level of direction or control for the second aspect has posed challenges. The Commentary to the article specifies that attribution to the state occurs only if it directed or controlled the specific operation, and the conduct in question was a vital component of that operation. Recent case law has explored this matter further.

Article 9 elaborates that the actions of an individual or group will also be considered state acts if they exercised elements of governmental authority in situations where official authorities were absent or inactive, necessitating the use of such authority. Article 10 states that if an insurrectional movement succeeds in establishing itself as the new government of a state or in forming a new state within the territory of an existing one, it will be held accountable for its actions prior to gaining that authority. This provision underscores the continuity of responsibility even amid shifts in governance.

Under Article 22 of the ILC Articles, an act's wrongful nature may be disregarded if it serves as a countermeasure. Historically, international law addressed such acts as reprisals, wherein an action

otherwise deemed unlawful became permissible in response to prior illegal force. Today, however, the term "countermeasures" is more commonly used, especially for reprisals that do not involve force. This concept differs from Article 60 of the 1969 Vienna Convention on the Law of Treaties, which outlines the response to a substantial breach of a treaty, allowing the other parties the right to terminate or suspend it. Unlike countermeasures, which do not nullify the breached obligation, a treaty's termination under Article 60 (and governed by Article 70) would release the other parties from all further commitments under that treaty.

Under Article 24, wrongfulness is excluded if the person responsible for the act had no other reasonable option in a situation of distress where their life or the lives of those in their care were at stake. This includes scenarios such as the 1946 US-Yugoslav understanding that unauthorized entry into foreign airspace would be justified only in emergencies, or a ship's captain seeking refuge in a foreign port during a severe storm without prior authorization.

The distinction between distress and force majeure lies in the degree of choice: distress implies some level of choice, even if minimal, whereas force majeure suggests a lack of alternatives due to uncontrollable circumstances. However, in both cases, the situation often involves extreme danger, making the reality of choice complex. In the Rainbow Warrior arbitration, the Tribunal set forth three conditions for this defense to apply: first, the presence of extraordinary urgency with fundamental humanitarian needs, acknowledged promptly by the other party or clearly evident; second, a restoration of the initial state as soon as the emergency's cause ended; and third, a genuine attempt to secure New Zealand's consent, per the 1986 Agreement. Ultimately, France was found not to have fully met these conditions, except for one agent's removal on medical grounds.

In essence, lawful countermeasures must respond to a prior wrongful act, taken after the responsible state's refusal to remedy it. These measures must target the state responsible for the wrongful act and be proportionate to the harm. Importantly, countermeasures do not need to relate to the specific obligation breached; they can address other obligations, so long as they meet requirements of necessity and proportionality. Consequently, a breach of one treaty might be met with actions involving a different treaty if these principles are maintained.

Article 41 establishes that states have a responsibility to cooperate in order to put an end to any serious breach of obligations that arise under peremptory norms of international law, utilizing lawful means to do so. Furthermore, states are prohibited from recognizing such breaches as lawful. This provision underscores the collective duty of the international community to address egregious violations of fundamental legal principles, such as those related to human rights, genocide, and other serious offenses. By fostering cooperation and mutual assistance, states can work together to uphold the rule of law and ensure accountability for serious breaches, thereby promoting international peace and security.

Article 42 of the ILC Articles establishes that a state qualifies as an injured party and can invoke the responsibility of another state if the breached obligation is one it individually holds, is part of a group of states holding the obligation, or is owed to the international community as a whole. A breach that specifically affects an injured state or fundamentally alters the position of all states bound by the obligation may justify this invocation of responsibility. However, responsibility cannot be invoked if the injured state has validly waived the claim or is seen as having implicitly accepted its lapse through its conduct. Any waiver must be explicit and unequivocal, while any inferred acceptance must be carefully evaluated according to the particular circumstances. In cases where multiple states are harmed by the same wrongful act, each may invoke responsibility independently; likewise, if multiple states are responsible for the act, each state's responsibility may be separately

invoked.

The ILC Articles elaborate on countermeasures in Chapter II. According to Article 49, an injured state may take countermeasures only against the state responsible for the wrongful act and only to encourage compliance with obligations resulting from that act. These measures are limited to a temporary suspension of obligations by the injured state, with an aim to allow eventual resumption of those obligations. Article 50 underscores that countermeasures must not interfere with certain critical obligations, including the prohibition of force under the UN Charter, human rights protections, humanitarian obligations barring reprisals, and other *jus cogens* obligations. Furthermore, any ongoing dispute resolution processes between the states remain unaffected, and the state imposing countermeasures must respect the inviolability of diplomatic agents, premises, archives, and documents.

Article 50 establishes specific obligations that remain unaffected by the adoption of countermeasures, preserving core values that must be upheld even when a State enacts measures in response to a breach by another State. Paragraph 1 underscores certain obligations that are shielded from suspension due to their fundamental nature. These include the obligation to refrain from the threat or use of force, commitments to protect essential human rights, humanitarian obligations prohibiting reprisals, and a broad category covering other duties arising from peremptory norms of general international law, commonly known as *jus cogens* norms. These obligations reflect universal values that maintain stability and fundamental respect among States.

Paragraph 2 addresses additional obligations that, while not elevated to the status of *jus cogens*, are similarly protected from interference through countermeasures due to their significance in upholding order and diplomacy between States. These include commitments under dispute resolution mechanisms between the State taking countermeasures and the State responsible for the initial breach, as well as obligations preserving the inviolability of diplomatic and consular agents, premises, archives, and documents. These provisions ensure that the essential functions of diplomacy and dispute resolution are safeguarded, maintaining channels for peaceful dialogue and international cooperation.

In its Partial Award on Prisoners of War—Eritrea's Claim 17, the Eritrea-Ethiopia Claims Commission referenced Article 50 while examining Eritrea's allegations regarding Ethiopia's failure to repatriate prisoners of war promptly. Eritrea asserted that this delay constituted a breach of Ethiopia's State responsibility. However, Ethiopia contested the Claims Commission's jurisdiction, effectively sidestepping Eritrea's assertions on the substance of the claims. This case highlights the importance of Article 50 in preserving specific obligations, even amidst complex disputes between States, ensuring that fundamental principles and the integrity of humanitarian standards remain protected.

The principle of force majeure has traditionally precluded wrongfulness, although it requires stringent proof. For instance, in the Serbian Loans case, the Court rejected Serbia's claim that repaying a loan had become impossible due to the First World War. Following several unauthorized U.S. aircraft flights over Yugoslavia in 1946, both nations acknowledged that only emergencies could justify such actions without consent. Article 23 of the ILC Articles addresses this by precluding wrongfulness where an irresistible force or unforeseen event beyond a state's control makes it materially impossible to fulfill an obligation. In the Gill case, for example, the destruction of a British national's house in Mexico due to sudden action by government opponents was deemed beyond the state's control; the Commission ruled that the government's inability to prevent the act resulted from a genuine incapacity rather than negligence in the face of sudden circumstances.

Article 53 reinforces the principle set forth in Article 49(1), which restricts the use of countermeasures to situations where they are necessary to prompt a responsible State to fulfill its secondary obligations under Part Two. Specifically, Article 53 mandates that countermeasures should cease once the responsible State has met these obligations in relation to the international wrongful act at issue. Article 54 functions as a safeguard clause, clarifying that the other provisions within Chapter II of Part Three do not undermine the right of a non-injured State to take lawful measures aimed at ensuring compliance with secondary obligations established under Part Two of the Articles. This includes efforts to bring an end to a breach of the relevant obligation and to secure appropriate reparations. Essentially, Article 54 affirms that States not directly injured still have a lawful means to act in support of the international legal order by promoting the cessation of violations and the restoration of lawful conditions.

The Articles seek to outline the general principles of customary international law concerning State responsibility for internationally wrongful acts. However, there are instances where a specific obligation of a State may be governed by more particular rules, which override these general principles and specifically dictate the conditions, content, or enforcement of State responsibility for that obligation. When such specific rules apply, they replace the general default rules set forth in the Articles to the extent of any inconsistency. This concept is encapsulated in the principle of *lex specialis*, where specific laws take precedence over more general provisions.

In line with this principle, Article 55 serves as a saving clause, clarifying that each Article applies only when no more specific rule governs the aspect of State responsibility related to the particular obligation in question. This ensures that specialized rules are not undermined by the general framework of State responsibility. A relevant case is *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, where the International Court of Justice addressed this issue. Although it did not explicitly reference Article 55, the Court rejected Bosnia and Herzegovina's argument that the specific nature of genocide required distinct rules of attribution for State responsibility, based on acts carried out under the direction or control of a State. Bosnia and Herzegovina argued that the unique nature of genocide—often involving a series of discrete acts across time and location—justified assessing a State's "effective control" not on each individual act but on the entirety of operations conducted by direct perpetrators.

The Court, however, determined that genocide's distinctive characteristics did not warrant deviation from established criteria, such as those used in the *Military and Paramilitary Activities* case. The Court held that the rules for attributing internationally wrongful acts to a State do not change based on the nature of the wrongful act unless a clearly defined *lex specialis* exists. Consequently, genocide is only attributable to a State if the actions constituting genocide, committed by individuals or entities other than the State's official organs, were executed wholly or partially under the State's instructions, direction, or effective control. This reflects the established principles of customary international law, as illustrated by the ILC Articles on State Responsibility.

Conclusion

The current international legal system faces challenges in coherence, enforcement, and clarity, highlighting the need for a robust concept of state responsibility. State responsibility bridges state sovereignty with international legal goals, creating a structured global framework for state behavior. State responsibility is guided by *jus cogens* norms, shaping the legitimacy of state actions. However, the restrictive interpretation of serious injuries can undermine their significance. Resolution 56/83

introduces secondary rules but leaves room for legal specificity, especially in areas like environmental law, trade, and criminal acts. State responsibility operates independently of domestic frameworks, but national legal systems often take precedence due to their coercive power. The effectiveness of international law is also influenced by the state's resources and capabilities. International law's fragmentation can lead to regulatory opportunities but risks dominance by global powers. The need for a unified legal framework is critical to ensure consistent enforcement of rights and obligations. Future efforts should focus on standardizing state responsibility and navigating the complexities of international law.

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