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LAW RELATING TO STATE RESPONSIBILITY-INTERNATIONAL PERSPECTIVES

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ABSTRACT:

The development in the field of information technology, science and other allied disciplines around the world had tremendously changed the way in which human beings are living. It also marked its impact on the activities of the state, as today almost majority of the states are welfare states, therefore they are engaged in giving most comfortable life to its subjects. Even the boundaries of the nations were turning blurred, due to the globalization and international trade. In this context the states are under obligations, while carrying out these welfare measures that they should not violates the international obligations which were made binding by them through, either treaties or customary international law. State owes responsibility towards other states, as well as they have to exercise due diligence so that their own citizens shall not commit any act due to which concern state will become responsible to make good the loss to another state. In this context it is desirable to have comprehensive rules of international law for fixing responsibility and awarding compensation to the state suffering loss. As most parts of the international law is un-codified and being of a developing nature, many domestic principles of justice were recognized to strengthen the law relating to state responsibility. Further the international law commission also studied at depth and drafted certain article dealing with the responsibility of state. This article is an attempt to consolidate the law relating to state responsibility as an intentional perspective.

KEYWORDS: *International law, obligations, state responsibility, treaties, attributability.*

1.INTRODUCTION

In every legal system responsibility and obligation is corollary of each other, even international law is not immune fromthis basic tenets of jurisprudence. International responsibility of a state arises through the breach of international obligations. Therefore the law relating to State responsibility is largely concerned with the breach by a State of one or more of its international obligations. While fixing liability internationallaw does not make any difference on the basis of source from which obligation emanates, such as treaty, customary international law, a unilateral declaration or the judgment of an international court. In other words it treats all breaches actionable on the basis of application of same rule to allkind of breaches.

The present article deals with the nature and basis of state responsibility and discusses the elements constituting state responsibility. It also deals with different theories relating tostate responsibility with illustrative cases. The article explains the defenses available to wrongdoer state and the remedies available to the state who suffered loss due to the breach of internationalobligations.

2.NATURE AND BASIS OF STATE RESPONSIBILITY

The doctrine of state responsibility is one of the core tenets of international law. Legally speaking state responsibility is 'simply the principle which establishes an obligation to make good any violation of international law producing injury'.[1] State responsibility arises out of the legal maxim stated by Grotius in 1646 that 'every fault creates the obligation to make good the losses'.[2]

As states are the conventional subjects of international law, technically the principle of state responsibility applies only on the state-to-state level

3.ELEMENTS OF STATE RESPONSIBILITY

State responsibility is mainly founded on three key elements:[3]

- The existence of an international legal obligation
- The omission of an act or occurrence of a wrongful act in its violation
- Loss or damage must result from such a wrongful act or omission.

In order to establish the existence of a violation of International law, it is necessary to establish, firstly, that there is a specific behavior consisting in action or inaction, that may, according to international law, be imputed to a given state, and secondly that such behavior constitutes a violation of that states in international obligations. As a rule, responsibility arises when actions by the state violating the law cause material or non-material damage to the legitimate interests of another state.

However, in the case of violations that are especially dangerous, responsibility may arise on the grounds that the damage affects the international community as a whole.[4] Liability arises only when there is a direct causal relation between the damage that is experienced and the illegitimate behavior of a given state

4.DOCTRINE OF ATTRIBUTABILITY

A State is international responsible when it has performed an internationally wrongful act, meaning conduct consisting of an action or omission that is attributable to a State under international law and that constitutes a breach of the international obligation of the State. In some cases, a State's actions may be justified because of circumstances precluding wrongfulness. Examples of such circumstances are consent, self-defense, force majeure, distress and necessity. This is for the respondent State to assert and prove.

The rules of attribution specify the actors whose conduct may engage the responsibility of the State. A State will generally only be liable for its conduct of its organs or officials acting as such.[5] Acts of private persons will usually not lead to State responsibility. However, a State may be liable for its failure to prevent such acts, or to take action to punish the individuals responsible.[6] The acts of mobs or

[1]Crook,J., 'The United Nations Compensation Commission: A New Structure to Enforce State Responsibility', American Journal of International Law, (1993), p.144

[2] Deng F, Sovereignty, Responsibility and Accountability ,(1995), p.5

[3] ILC's Draft Articles on Responsibility of States for Internationally Wrongful Acts, Article 1,2 and 3

[4]**Barcelona Traction, Light and Power Company Limited (Belgium v. Spain) case.** In that case, the court stated: An essential distinction should be drawn between the obligations of a State towards the international community as a whole, and those arising vis-à-vis another State in the field of diplomatic protection. By their very nature the former are the concern of all States. In view of the importance of the rights involved, all States can be held to have a legal interest in their protection; they are obligations ergaomnes

[5] Clyde Eagleton, The Responsibility of States in International Law, (1970), p. 5

[6] Ian Brownlie, System of the Law of Nations – State Responsibility, Part I (1983), p. 35

private individuals may also be attributable to the State if the State had authorized or controlled the acts, or if and to the extent that the State acknowledges and adopts the conduct in question as its own.[7]

4.1.ACT OF INDIVIDUALS

A state can be liable only on the grounds of the behavior of persons possessing specific legal relations with that state, in those who are its organs or officials. Thus the term "liability" is employed in international practice to denote a specific relationship between a persons or a group of persons that commit a certain action or inaction, on the one hand, and the state that is responsible for their activities, on the other.

In 1947 the International Military Tribunal at Nuremberg stated that "crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced"[8]

A state's responsibility may arise as a result of acts committed on its territory by private persons (its own citizens or foreigners) and their organizations. States are not responsible for the actions of private individuals, but for the behavior of their organs in failing to prevent such action or to punish the guilty parties, as they are obliged under the law.[9] This is especially serious in the case of such acts by private individuals as international terrorism, war propaganda, racial discrimination and genocide.

A foreign embassy is overrun by a mob, or harm is done to diplomatic staff by private individuals, as occurred with the U.S. embassy in Tehran during the Iranian revolution of 1979 to 1980, a State may incur responsibility, even if those individuals act on their own initiative.[10] Equally, the obligation of a State to punish those responsible for genocide earlier on related to genocide may be breached in instances in which a State fails to punish any person responsible for the genocide, "whether they are constitutionally responsible rulers, public officials, or private individuals."[11] There is probably a similar rule in general international law in relation to crimes against humanity. In both cases, the basis of responsibility here is not the attribution to the State of the acts of the individuals; it is the failure by the State as an entity to comply with the obligations of prevention and prosecution incumbent on it.

4.2.FOR ACTS OF MOB VIOLENCE

Same as for acts of private individuals, generally state may be held responsible for mob violence only when it had not made due diligence to prevent it.

United States diplomatic and consular staff in Tehran[12] Rioters and other militants attacked and occupied US diplomatic and consular premises in Iran. They also seized the occupants and held them as hostages.

Since the rioters and militants were persons without official status in the initial stages their acts could not be imputed to the state, the ICJ held Iran not responsible for the initial stages of their acts. But subsequently the situation changed when the militants became agents of the state and hence Iran was held responsible for their acts The Israel government was held responsible to pay compensation.

4.3. FOR ACTS OF INSURGENTS

[7] Ibid, p.225
[8] Ibid, p.334
[9] Oppenheim's, International Law, (9th Ed. 1992) p. 299
[10] Philip. C. Jessup, A Modern Law of Nations: An Introduction ,(1968) ("the history of (theresponsibility of states)-exemplifies the way in which a body of customary Law develops.), p. 94
[11] Article V of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide
[12] Oppenheim's, International Law, (9th Ed. 1992) p. 212

The State is not responsible for acts of the insurgents, but is only obliged to exercise due diligence to prevent or immediately crush the insurrection, and to punish those responsible for injuries to foreigners.

A somewhat anomalous instance of attribution is that covered by Article 10[13]. As was noted above, in the normal course of events, a State is not responsible for the acts of private individuals; a fortiori, it is not responsible for the acts of insurrectional movements, because, by definition, an insurrectional group acts in opposition to the established state structures and its organization is distinct from the government of the State to which it is opposed. However, "The conduct of an insurrectional movement which becomes the new government of a State shall be considered an act of that State under international law."[14]Further if an insurrectional movement that succeeds in establishing a new State within the territory of a pre-existing State.[15] The effect of the rule is to attribute retrospectively the conduct of the movement in question to the State. In the case of a successful insurrectional movement, the acts of the movement are attributed to the State as if the movement had been the government at the time of its acts, even though, if the insurrection had failed, no attribution would be possible.

In the case of the establishment of a new State, the effect is even more drastic because acts are attributed to the State retrospectively to a time when it did not yet definitively exist.A state's responsibility under international law relates exclusively to inter-state relations, and a state is responsible for the non-fulfillment of its international obligation independently of legislative acts relating to its domestic law

4.4.ACT OF STATESOWN RGANS

The position of corresponding state bodies within that states organizational structure does not pay a substantial role in the emergence of the state 's international legal responsibility. The actions of legislative bodies leading to international responsibility include primarily the adoption of laws or any other normative acts that contradict the state's international obligations. In such cases it becomes liable immediately upon the promulgation of the law. The failure to pass a law needed to carry out an international obligation gives rise to international liability only when there have been unlawful acts resulting from the failure to pass such laws[16]

The state is also subject to international legal responsibility for actions by its executive organs (ranging from the government itself to representatives of lower levels of the executive power), these bodies account for the majority of violations, there have been numerous instances of diplomats of imperialist states committing a variety of hostile acts against host countries, including direct violations of their laws, helping to organize conspiracies and coups d'etat, engaging in an espionage etc.

A state's international obligations may also be violated by the actions or failures to act of national courts since them, too, are organs of the state. The principle of the independence of the juridical power does not preclude the state responsibility, for this principle refers to the independence of courts in relation to governments, not to states.

4.5.ACT OF OTHER STATE'S ORGANS

It has already been noted earlier that, in principle, as a subject of international law, the state bears international legal responsibility only for its own actions, i.e. those of its own organs. This also applies to cases in which the responsibility of a state arises from actions by organs of other states that

[13] Supra Note 10, p. 6
[14]Article 10(1) International Law Commission (2001), Articles of the Responsibility of States for InternationallyWrongful Acts, UN Doc. A/CN. 4/L. 602/Rev.1
[15] Ibid Article 10(2)
[16] G.I. Tunkin, International Law, (1980), p. 221

contradict international law and are initiated on its territory, or else from its territory against third states.

Two categories of such actions should be distinguished, namely, actions by another state carried out on the territory of the given state within its consent, and actions performed without its consent.

If actions of another state, directed against a third state and violating international law, are conducted on the territory or from the territory of the given state with its consent it becomes a party to the foreign states unlawful actions.[17] This consent may be either adhoc or general. This issue often arises when there are imperialist military bases on the territory of another state. The state on whose territory there exist foreign military bases which are used for unlawful activities, in relation to a third state is an accomplice in such actions and bears responsibility for them since they are conducted with its consent, expressed in the agreement on the establishment of these bases.

When, on the other hand, illegitimate actions by a foreign state directed against a third state are conducted on the territory or else from the territory of a given state without its clearly expressed or tacit consent, then it is responsible for such activities only if it organs have not shown' due diligence in taking measures to end such activities by foreign states.[18] When a state permits on its territory activities by a foreign state that are, by their very nature, directed against another state the problem of due diligence' does not arise, and such a state is responsible as an accomplice for any illegitimate activities by the foreign state initiated on its territory or else from its territory against a third state

4.6. ORGANS OR OFFICIAL PERSONS ACTING OUTSIDE THEIR FORMAL COMPETENCE,

State responsibility also arises for actions by its organs or official persons committed outside their formal competence, i.e. if they have exceeded their powers or violated instructions. Acts by an official person who uses his official position or service equipment to harm a foreign state or its citizens are viewed as actions by the state itself, for which it is held responsible.[19]

5. THEORIES OF STATE RESPONSIBILITY

There exist various theses about international responsibility of States; most of them concern responsibility of some kind for a wrongful act and one is about liability without a wrongful act. Thus, there is a difference between the terms responsibilityand liabilityin contemporary international law. By responsibility, it is usually meant the consequences arising from the breach of an international obligation while liabilitymeans the duty to compensate damage in the absence of a violation of international law.[20]

5.1. FAULT OR SUBJECTIVE THEORY

Fault responsibility (or subjective responsibility) mostly refers to the intention (dolus) or negligence (culpa) of the actor. State is not responsible to another state for unlawful acts committed by its agents unless such acts are committed willfully and maliciously or with culpable negligence.[21] The necessary measures have thus not been taken to avoid the injurious event.

In situations where acts of private persons result in damage and the acts are not attributable to the State, the State may still be responsible because of failure to control. In the ***Corfu Channel Case,***[22] where Albania was held responsible since it must have known that the mines had been recently laid and even so failed to warn the British warships passing through the strait of the imminent danger, the court said that:

[17] Bin Cheng, General Principles of Law as Applied by International Courts and Tribunals, (1953), p. 183-84
[18] J.G.Strake, Introduction to International Law, (10th Ed. 1994), p. 312
[19] See infra note 21 at p 255
[20] See infra note 25 at p 45
[21] Year Book of International Law Commission (1973), p. 169
[22] ICJ Reports 1949,

It is clear that knowledge of the mine laying cannot be imputed to the Albanian Government by reason merely of the fact that a minefield discovered in Albanian territorial waters caused the explosions of which the British warships were the victims It cannot be concluded from the mere fact of the control exercised by a State over its territory and waters that that State necessarily knew, or ought to have known, of any unlawful act perpetrated therein, nor yet that it necessarily knew, or should have known, the authors. This fact, by itself and apart from other circumstances, neither involves prima facieresponsibility nor shifts the burden of proof.[23]

5.2. RISK OR OBJECTIVE THEORY

This theory is based on the premise that a state must be liable once an unlawful act which violates a clear international obligation is done, notwithstanding the intention of the official involved or any fault. "the doctrine of the "objective responsibility" of the state, that is the responsibility for the acts of the officials or organs of a state may devolve upon it even in the absence of any "fault" of its own.[24]

The state also bears an international responsibility for all acts committed by its officials or its organs which are delictual according to international law, regardless of whether the official organ has acted within the limits of its competence or has exceeded those limits.

However, in order to justify the admission of this objective responsibility of the state for acts committed by its officials or organs outside their competence, it is necessary that they should have acted, at least apparently, as authorized officials or organs, or that, in acting, they should have used powers or measures appropriate to their official character".

5.3. ABSOLUTE LIABILITY

Lastly, alongside the various theories of responsibility for a wrongful act, there is also the regime of liability without a wrongful act. Here, the causal link between the activity and the damage had done leads to the obligation to pay compensation, or liability, even though the damage occurred from a lawful activity.[25]

It has often been for practical reasons, because of scientific and technological developments, that international liability has advanced. The developments have led to activities that are beneficial to society, but that also involve a certain degree of risk of causing harm. Examples of such activities are the transportation of oil, the production of nuclear energy and operations in outer space.[26]

This has resulted in several treaties regulating these activities contain special liability rules.[27] Most treaties containing rules on liability concerns civil liability, meaning that the operator or owner of a certain activity is obliged to pay compensation for damage resulting from the activity. The liability regarding an accident is restricted to an insurable sum of money and the national courts are the forum for a proceeding.

The point is that victims should be appropriately compensated and status quo be restored. A few conventions have assumed international liability.[28] Since the State parties are not too fond of such

[23]Shaw, M. N. (1997). International Law. Cambridge University Press

[24] Ian Brownlie, System of the Law of Nations – State Responsibility, Part I (1983), p. 40

[25] Ibid, p.155

[26] For example, in Article III (1) of the 1969 International Convention on Civil Liability for Oil Pollution Damage it is stated that "the owner of a ship at the time of an incident…shall be liable for any pollution damage caused by oil which has escaped or been discharged from the ship as a result of the incident". See also the 1960 Paris Convention on Third Party Liability in the Field of Nuclear Energy, the 1963 Brussels Convention supplementary to the Paris Convention and, the 1963 Vienna Convention on Civil Liability for Nuclear Damage

[27] For example, the 1958 Geneva Convention on the High Seas, Article 22, which has been incorporated in Article 110 of the UNCLOS, the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, Article VII and, the 1972 Convention on International Liability for Damage Caused by Space Objects, Article II.

[28]Brownlie, Ian, System of the Law of Nations. State Responsibility, Part I, 1983, Oxford, pp. 37-49 and Principlesof Public International Law, 4th ed., 1990, Oxford, p. 436.

solution they instead prefer definite standards to be met by the State parties and creating civil liability regimes. Conclusively, there is not a very large amount of treaties containing liability, and liability is neither common in customary international law.

5.4. ECLECTIC THEORIES OF RESPONSIBILITY

There are also eclectic theories of responsibility that are a compromise between the fault theory and the theory of objective responsibility. This idea concerns the objective and relative responsibility together with a special regime for the particular rules containing the duty of diligence.[29] There are various opinions about this theory. One group of authors claim that it is the interpreter alone, who shall estimate if the wrongful act requires fault.

Swarzenberger believes "the judge's discretion, reasonableness and equity are the guide for seeing whether, in each specific case, in order to have a wrongful act, an additional element to the breach of an international obligation must be required".[30] Subjective fault sometimes may be considered, especially "when the international obligation is defined in terms of goals and when the lawfulness of the State conduct is to be judged by reference to given standards of diligence. Some authors are instead more careful about distinguishing between cases adhering to fault responsibility and those subject to the principle of objective responsibility.

In order to do so, they differentiate among groups of wrongful acts and sometimes among groups of norms or of international obligations. Brownlie has argued that objective responsibility is the main rule, but that fault may come into play when a State is obliged by international law to exercise control, accordingly standards of due diligence, over specific activities in order not to cause harm.[31]

Thus, it is the content of the international norm in question, which settles whether fault is relevant Because of the lack of consensus among the authors; it is therefore doubtful whether the eclectic theories can be considered to be a theory of the same significance as the theories of objective responsibility and of fault responsibility.

6. DEFENSES PRECLUDING STATE RESPONSIBILITY

Certain circumstances may serve to preclude the wrongfulness of a breach of international law by a State, in much the same way that defenses and excuses work in national criminal law. In international law these are termed "circumstances precluding wrongfulness"[32]

6.1. CONSENT

Consent is an integralpart of the sovereign equality of states,it is also the product of an international system that seeks topreserve the autonomy of states. Therefore a state can consent to acts otherwise contrary toits sovereigntyis recognizable broadly with in internationallaw.[33] Further, Volunti non fit injuriai.e. injury without consent is not actionable,is also an accepted principle around the world.For a state to successfully plead this defense there must be existence of a valid consent. It must be shown that the state that breached its responsibility was within the scope of that consent.[34]

[29]Swarzenberger, Georg, International Law, Vol. I: International Law As Applied by International Courts and Tribunals, I, 3rd ed, 1957, London, pp. 632-652.
[30] Ibid p. 36
[31] Ibid p. 44
[32]R.Ago, Eight Report on State Responsibility, Circumstances Precluding Wrongfulness, (U.N. Doc. A/CN.4.318/Add.1-7); Reports of the ILC on the work of its XXXI and XXXII Sessions, New York, 1979 and 1980 (U.N.Doc.A/34/10, pp. 239-69 and U.N.Doc. A/35/10, pp.59-135)
[33] Article 2 (7) of 4nited nations Charter 1945
[34] Simmons J. (1976) 'Tacit consent and Political obligation', Philosophy and Public Affairs, p. 274

6.2. COUNTERMEASURES

The International Law Commission Articles recognize the fact that states are entitled to resort to countermeasures. Countermeasures must not beforcible. Non-forcible anticipatory countermeasures are unlawful.[35] This is because countermeasures constitute a response to an unlawful act. Countermeasures are temporary, reversible steps aimed at inducing the wrongdoing state to comply with its obligations under international law.

In the Case Concerning **Gabcikovo-Nagymaros Project: Hungary v Slokavia, Merits (1997)** the International Court Of Justice, elaborating on State Responsibility, defined the conditions under which a state may resort to countermeasures: firstly it must be taken in response to a previous international wrongful act of another state and must be directed against that state.

Secondly, the injured state must have called upon the state committing the wrongful act to discontinue its wrongful conduct or to make reparation for it, thirdly the effect of a countermeasure must be commensurate with the injury suffered, taking account of the rights in question and lastly, its purpose must be to induce the wrongdoing state to comply with its obligations under international law.

6.3. FORCE MAJEURE

Force majeure is 'the occurrence of an irresistible force or of an unforeseen event, beyond the control of the state, making it materially impossible in the circumstances to perform the obligation'.[36] However, paragraph 2 of art 23 excludes a defense based on force majeure:

a) situation of force majeure is due, either alone or in combination with other factors, to the conduct of the state invoking it; or
b) The state has assumed the risk of that situation occurring. Force majeure was pleaded by Albania in the Corfu Channel Case (1949) ICJ.[37]

The ICJ rejected the defence on the ground that Albania did not show that it was an absolute impossibility to notify the existence of a minefield in its territorial waters to the UK warships

In the **Rainbow Warrior Arbitration: New Zealand v France (1987)**[38] two French members of the French Secret Service, were apprehended by New Zealand after boarding the Rainbow Warrior and placing explosive devices . They were tried under the law of New Zealand and sentenced to ten years' imprisonment. The French government and the government of New Zealand accepted the solution proposed by the UN Secretary-General which consisted of handing over the two agents to the French authorities on the basis that they would be transferred immediately to the French military base on the Island of Hao in French Polynesia and detained there for three years.

The French government justified its decision to repatriate him on urgent medical reasons which, according to France, amounted to force majeure. The Arbitral Tribunal rejected the French defense on the ground that the medical emergency did not amount to 'absolute and material impossibility' which is a necessary requirement for a successful defense based on force majeure.

6.4. NECESSITY

In its commentary the ILC defined the state of necessity as being: "The situation of a state whose sole means of safeguarding an essential interest threatened by a grave and imminent peril is to adopt conduct not in conformity with what is required of it by an international obligation to another state"[39]

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[35]Brownlie, I. (1963). International Law an the Use of Force by States. Oxford. At P 122 See a3s6 Louis Henkin, O. S. (1993).International Law Cases and Materials. Wes Publishing Company. At P 328

[36] Article 23 of the International Law Commission (2001), Articles of the Responsibility of States for Internationally Wrongful Acts, UN Doc. A/CN. 4/L. 602/Rev.1

[37] Supra Note 35, pp. 511

[38]R.Ago, Eight Report on State Responsibility, Circumstances Precluding Wrongfulness, (U.N. Doc. A/CN.4.318/Add.1-7); Reports of the ILC on the work of its XXXI and XXXII Sessions, New York, 1979 and 1980 (U.N.Doc.A/34/10, pp. 239-69 and U.N.Doc. A/35/10, pp.314)

[39] Clyde Eagleton, The Responsibility of States in International Law, (1970), p. 55

1. There must be exceptional circumstances of extreme urgency,
2. The status quo ante must be re-established as soon as possible and
3. The state concerned must act in good faith.

Article 25 of the International Law Commission Articles defines the conditions for invoking a defence based on necessity. The defense of necessity was successfully invoked by the United Kingdom when it bombed the Torrey Canyon, a ship flying the Liberian flag which was grounded outside the British territorial waters.[40] This was because it represented a threat of an ecological disaster.

6.5. DISTRESS

Article 24 of the ILC Articles provides that the situation of distress occurs when 'the author of the act in question has no other reasonable way, in a situation of distress, of saving the author's life or the lives of other persons entrusted to the author's care'. Distress cannot be invoked if:[41]

i. The situation of distress is due, either alone or in combination with other factors, to the conduct of the state invoking it; or
ii. The act in question is likely to create a comparable or greater peril.

In a situation of distress there is always a choice

1. To respect an international obligation
2. To sacrifice one's life or the lives of others who are in one's care

To illustrate a situation of distress, the International Law Commission gave an example of the unauthorized entry of an aircraft into a foreign territory to save the life of a passenger or passengers.[42]

6.6. SELF-DEFENCE

Self-defence as defined in international law, especially under art ij of the Charter of the United Nations[43] and in customary international law, will preclude the wrongfulness of the conduct concerned.

In customary international law, under the principles established in the **Caroline Case: USA v UK (18l7)**,[44] a pre-emptive strike was a perfectly lawful means of anticipatory self-defence in the face of a threat of force; indeed, it was the only possible means of defence against such threats as they could only be countered by an attack to pre-empt the harm that they would otherwise cause.

7. REMEDIES AVAILABLE TO INJURED STATE

'UbiJus IbiRemedium'it connotes for whenever thereis a right there is a remedy. This generalprincipalof law also finds place in internationallegal system.[45] Therefore, whenever any state suffered damage in consequences of wrongful act of another state, such injured state can avail the remedies provided by internationallaw. The wrongdoer state is alsounder obligation to make reparation for the same.Art l4 ILC Draft involves restitution, compensation or satisfaction.[46] Remedies will be dependent on the particular forum such as United Nations, International Court of Justice, World Trade Organization, and International Criminal Court.

The state is under an obligation to make full reparation for the injury caused by the intentionally wrongful act whether material or moral. **Charzow Factory Case**[47] laid down the principle with regard to reparation. The court emphasized that; 'reparation must, as far as possible, wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existedprior to commission of wrongful act.

[40] Ibid, p.156
[41] Supra Note 36
[42] Ibid, p.158
[43] Supra Note 38 at PP 133
[44] Supra Note 36 at PP 231
[45] Bin Cheng, General Principles of Law as Applied by International Courts and Tribunals, (1953), p. 183-84
[46] Supra Note 36 at PP 299
[47] Gray, C. (1987). Judicial Remedies on International Law. Oxford.

Poland seized a factory at Chorzow contrary to the Geneva Convention 1992 between Germany and Poland on Upper Silesia. Germany claimed for damages caused by what it termed as illegal expropriation.

7.1. FORMS OF REPARATION

Full reparation for the injury caused by the intentionally wrongful act shall take the form of restitution, compensation and satisfaction, either singly or in combination.[48] Wiping out all the consequences may require some or all form of reparation depending on the type and extent of injury. Draft articles of Internationallaw commission on state responsibility deals with the following kinds of remedies

7.1.1. Restitution

This is to re-establish the situation which existed before the wrongful act was committed, provided that the extent restitution;

- Is not materially responsible
- The state does not involve a burden out of all proportion, to the benefit deriving from restitution instead of compensation.

Restitution in its narrow sense is to be completed by compensation in order to ensure full reparation for the damage caused.[49]

7.1.2. Compensation

The state responsible for an intentionally wrongful act is under an obligation to compensate for the damage caused thereby, insofar as such damage is not made good by restitution.

The compensation shall cover any financially assessable damage including loss of profits insofar as it is established.Out of the various types of reparation, compensation is the most commonly sought in international practice.[50]

I'm Alone Case[51] The commissioner recommended the payment by the US of $25,000 as a material amendment in respect of the wrong committed by the US in sinking I'm Alone.

7.1.3. Satisfaction

This relates to non-monetary compensation and may consist an acknowledgment of the breach, an expression of regret, a formal apology or other appropriate modality[52] e.g. in situations of insult to the national flag, attack on ship or aircraft;Apology is the common form of satisfactionExpression of regrets or apologies were required.

In I'm Alone Case,[53] Rainbow Warrior[54]. The French government wanted to prevent the ship from interfering with a planned nuclear test and to french agents sank the ship through bombing it. A commission of enquiry cleared French government of involvement. The Prime Minister admitted the bombing had been a French plot.

[48]Gillard.E. 'Reparation for Violations of International Humanitarian Law', International Review of the Red Cross (2003), p. 522
[49] Ibid, p.288
[50]Article 36 (1) and (2) of the International Law Commission (2001), Articles of the Responsibility of States for Internationally Wrongful Acts, UN Doc. A/CN. 4/L. 602/Rev.1
[51]Gray, C. (1987) Judicial Remedies on International Law. Oxford
[52]Article l7 of the International Law Commission (2001), Articles of the Responsibility of States for Internationally Wrongful Acts, UN Doc. A/CN. 4/L. 602/Rev.1
[53]Louis Henkin, O. S. (1993). International Law Cases and Materials. Wes Publishing Company p.165
[54] Ibid, p.211

8. CONCLUSION

Therefore, in international law, responsibility pertains to a State which commits an internationally wrongful act against another, giving rise to the duty to give reparation. The wrongful act that is attributable to a State, committed by its agencies or officials or in the exercise of its authority, constitutes a breach of international obligation that is binding at the time the act is committed. Such a classic formulation of international responsibility is premised on inter se relations of States; an act or omission of one State in breach of an obligation defined by international custom or convention, which it owes to another State. However, progress in the theory and practice of international responsibility has gone beyond the scope of bilateral relations. The developments towards the consolidation of the institutions making up the International Community of States as a whole have broadened in significant scale.

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