The Legal Foundations of the International Responsibility of States

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Abstract

The international responsibility of states constitutes a fundamental mechanism for ensuring the effectiveness of international law and preserving the binding character of international obligations. This study examines the legal foundations governing state responsibility, with particular emphasis on the conditions required for the establishment of an internationally wrongful act and the legal consequences arising from it. The research adopts a descriptive-analytical approach to clarify the relationship between primary international obligations and the secondary rules regulating responsibility. It analyzes the two principal elements of state responsibility: attribution of conduct to the state and breach of an international obligation. The study also addresses the legal significance of acts and omissions, the attribution of conduct by state organs and entities exercising governmental authority, ultra vires conduct, and the conduct of private persons acting under state instructions, direction, or control. Particular attention is given to the distinction between attribution and causation, as well as to the non-universal role of fault and damage in establishing responsibility. The study further examines the temporal dimensions of wrongful conduct, including completed, continuing, and composite breaches. In addition, it analyzes the principal circumstances precluding wrongfulness, namely consent, self-defence, countermeasures, force majeure, distress, and necessity, while emphasizing the limitations imposed by peremptory norms of international law. The legal consequences of responsibility are also considered, particularly cessation, assurances and guarantees of non-repetition, restitution, compensation, and satisfaction. The study concludes that the modern law of state responsibility provides a coherent and flexible legal framework capable of addressing diverse violations across different branches of international law. Its effectiveness, however, continues to depend on accurate attribution, proper interpretation of the underlying obligation, and the availability of appropriate mechanisms for enforcement and reparation.

Keywords: International Responsibility of States; Internationally Wrongful Act; Attribution; Breach of International Obligation; Circumstances Precluding Wrongfulness; Reparation

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1. Introduction

The international responsibility of states occupies a central position in the structure of contemporary international law because the binding character of international obligations would be substantially weakened if their violation did not entail legal consequences. International law does not merely prescribe rules of conduct for states; it also establishes a secondary legal framework that determines when conduct contrary to an international obligation is legally attributable to a state and what consequences arise once responsibility has been established. In this sense, the law of state responsibility performs a systemic function. It transforms the violation of an international obligation from a purely political dispute into a legal relationship governed by rules concerning attribution, breach, cessation, reparation, and, in certain circumstances, the invocation of responsibility by other states. The development of this framework reflects the gradual maturation of international law from a system heavily dependent on diplomatic protest and power relations into a legal order in which breaches are assessed through increasingly articulated principles. Crawford explains that the modern law of state responsibility is concerned principally with the secondary rules governing the consequences of breach rather than with defining the substantive content of every international obligation (Crawford, 2013). This distinction is fundamental because the rules of responsibility operate across diverse fields of international law, including human rights, environmental protection, diplomatic relations, the use of force, international humanitarian law, treaty obligations, and obligations arising from customary international law.

The intellectual foundations of state responsibility developed long before the contemporary codification efforts of the International Law Commission. Traditional international law recognized that internationally unlawful conduct by a state could give rise to duties of reparation, although early doctrine often framed responsibility primarily through the concepts of injury to another state, fault, or diplomatic protection. Over time, the doctrine became broader and more precise. Sabrini treats international responsibility as an indispensable consequence of the legal personality of states and of the binding force of international rules (Sabrini, 2009). Abu Al-Ata similarly situates responsibility within the general structure of public international law by emphasizing that the existence of enforceable obligations presupposes consequences when those obligations are violated (Abu Al-Ata, 1998). These classical conceptions gradually gave way to a more systematic account in which the decisive questions became whether particular conduct could be attributed to a state and whether that conduct failed to conform to an international obligation binding upon it. The shift was particularly important because it reduced reliance on uncertain theories requiring proof of subjective fault in every case and made it possible to apply a common framework to obligations whose substantive standards differ considerably.

The most influential contemporary formulation of this framework is found in the International Law Commission's work on the responsibility of states for internationally wrongful acts. The Commission's project, culminating in the 2001 Articles, represents decades of attempts to clarify and codify customary principles concerning the conditions and consequences of responsibility. Crawford's commentary on the Articles demonstrates that their principal achievement was not the creation of a comprehensive code of substantive international obligations, but the formulation of general secondary rules capable of operating whenever an applicable primary rule has been breached (Crawford, 2002). Badyou likewise emphasizes the continuing importance of the 2001 framework in organizing the legal consequences of wrongful conduct and distinguishing the law of responsibility from the underlying substantive regimes (Badyou, 2022). This distinction enables the same general framework to apply whether the relevant obligation derives from treaty law, customary international law, a general principle, or another binding source recognized by international law.

The law of international responsibility must therefore be distinguished from the primary rules that determine what states are required or prohibited from doing. Primary rules may require states to refrain from the use of force, protect foreign diplomatic missions, prevent environmental harm, respect human rights, perform treaty commitments, or exercise due diligence in relation to particular risks. The law of responsibility does not itself determine the detailed content of those duties. Instead, it asks what follows when the applicable primary obligation has not been observed. Dupuy's analysis of obligations of conduct and obligations of result demonstrates why this distinction is essential: different primary obligations establish different standards of compliance, while the secondary rules provide a common framework for determining the consequences of non-compliance (Dupuy, 1999). A breach can therefore occur in relation to obligations requiring a specific result as well as obligations

requiring reasonable conduct, prevention, vigilance, or due diligence, but the precise evaluation of breach depends on the interpretation of the particular primary rule.

A further conceptual issue concerns the relationship between responsibility, damage, fault, and causation. Earlier doctrinal approaches sometimes treated injury or fault as indispensable components of state responsibility. Modern international law is more nuanced. The existence of responsibility does not universally depend upon proof of material damage, because some international obligations are breached by conduct itself even where measurable injury has not yet occurred. Sajet's discussion of responsibility for failures concerning climate-related obligations illustrates the significance of preventive obligations, whose violation may have legal relevance before particularized damage can be demonstrated (Sajet, 2024). Similarly, Crawford distinguishes the existence of an internationally wrongful act from the subsequent assessment of injury and reparation (Crawford, 2013). Damage remains highly important when determining compensation, causation, and the scope of reparation, but it does not constitute an additional universal element of every internationally wrongful act.

Fault must also be approached with care. International responsibility is not built on a single universal requirement of intention, negligence, or bad faith. The mental or fault-related standard depends on the content of the primary obligation in question. Some international rules expressly or implicitly require intention, knowledge, negligence, or failure to exercise due diligence, while others are breached whenever conduct objectively fails to comply with the prescribed standard. Crawford notes that the law of responsibility cannot impose a general subjective fault requirement without altering the content of primary obligations (Crawford, 2002). Badyou's examination of justifications and excuses similarly indicates that questions of fault should not be confused with the separate question of whether conduct is legally wrongful and whether a recognized circumstance may preclude wrongfulness (Badyou, 2018). This distinction preserves doctrinal coherence by preventing the secondary rules from rewriting the substantive obligations from which responsibility arises.

Attribution constitutes the second indispensable dimension of the legal framework. International law must determine when conduct performed by individuals, governmental organs, public entities, or private actors is legally treated as conduct of the state itself. A state is an abstract legal entity and can act only through human beings and institutions. For this reason, responsibility cannot be assessed solely by identifying factual causation. The relevant inquiry is normative: whether international law recognizes a sufficient legal connection between particular conduct and the state. Griebel and Blöcken demonstrate the importance of this distinction in discussing the jurisprudence concerning attribution and state-connected actors (Griebel & Blöcken, 2008). Cassese likewise shows that the debate over effective control and overall control reflects different legal questions concerning the conditions under which acts of groups or persons may be linked to states (Cassese, 2007). The rules of attribution therefore prevent responsibility from being imposed merely because a state has some political, financial, or factual association with the actor while also preventing states from escaping responsibility through organizational arrangements or delegations.

The law of responsibility also accommodates the reality that wrongful conduct may take the form of either action or omission. A state may breach an obligation by actively engaging in prohibited conduct, but it may also incur responsibility by failing to take measures required by international law. The significance of omissions is particularly apparent in obligations of prevention, protection, supervision, investigation, or due diligence. The relevant legal question is not simply whether nothing was done, but whether international law required the state to act and whether the omission is attributable to the state. Zaza's general treatment of international responsibility recognizes the importance of both positive conduct and legally relevant failures to act (Zaza, 2011). This point also reinforces the distinction between the factual occurrence of harm and the legal structure of breach, since the violation may lie in a state's failure to discharge a duty even where another actor directly caused the immediate harm.

Temporal questions further complicate the determination of responsibility. A breach may be completed at a particular moment, continue over a period of time, or consist of a series of acts that together constitute a composite wrongful act. Bolin's analysis of continuing breaches demonstrates that temporal classification has significant consequences for jurisdiction, cessation, admissibility, and the scope of legal consequences (Bolin, 1995). The law must distinguish between the continuing effects of a completed act and wrongful conduct that remains legally ongoing. This is particularly important where the relevant obligation requires the termination of an unlawful situation rather than merely prohibiting the initial act that created it.

The present article aims to analyze the legal foundations of the international responsibility of states through a systematic examination of the concepts, conditions, exceptions, and consequences that structure the doctrine. It focuses on the internationally wrongful act, attribution, breach, circumstances precluding wrongfulness, and the legal consequences flowing from established responsibility. Its objective is to clarify how these components interact and to demonstrate that responsibility operates through a coherent secondary legal framework rather than through an undifferentiated concept of state fault. The article adopts a descriptive-analytical method. It examines the conceptual development of state responsibility, analyzes the principal legal categories governing attribution and breach, evaluates recognized circumstances precluding wrongfulness, and considers the forms of cessation and reparation available after a wrongful act has occurred. Particular attention is given to the 2001 framework and the doctrinal literature reflected in the underlying thesis, while questions specific to artificial intelligence, autonomous weapons, individual criminal responsibility, and specialized technological contexts are excluded except where a general principle of state responsibility can be extracted from the relevant scholarship.

2. Conceptual and Legal Foundations of the International Responsibility of States

International responsibility may be understood as the legal relationship arising when conduct attributable to a state fails to conform to an international obligation binding upon that state. This definition captures the two elements around which the contemporary doctrine is organized: attribution and breach. The first determines whether the relevant conduct is legally regarded as conduct of the state, while the second determines whether that conduct is inconsistent with what international law required at the relevant time. Crawford identifies this two-element structure as the central organizing principle of the modern law of state responsibility (Crawford, 2002). The significance of this formulation lies in its generality. It avoids the need to construct separate theories of responsibility for every branch of international law and instead provides a common legal architecture within which the breach of any valid international obligation may be assessed.

The legal nature of state responsibility is distinct from punishment in the criminal sense. International responsibility is primarily restorative and relational rather than penal. Its immediate consequences typically include cessation of continuing wrongful conduct, assurances or guarantees against repetition where appropriate, and full reparation for injury caused by the wrongful act. Crawford emphasizes that the law of responsibility is not fundamentally designed as an international criminal code for states (Crawford, 2013). Instead, its principal function is to restore legality and address the consequences created by non-compliance. This distinction is important because political language frequently describes sanctions, condemnation, or coercive measures as forms of state punishment, whereas the legal doctrine of responsibility is more precisely concerned with the consequences attached to an internationally wrongful act.

The modern doctrine rests upon the distinction between primary and secondary rules. Primary rules determine the substance of international obligations. They specify, for example, what conduct is prohibited, what conduct is required, what degree of diligence must be exercised, and which interests or persons are protected. Secondary rules determine when a primary rule has been violated, how the violation is attributed to a state, whether wrongfulness may be precluded in exceptional circumstances, and what legal consequences follow. Crawford's treatment of the International Law Commission's Articles places this distinction at the center of the codification project (Crawford, 2002). Badyou also recognizes the secondary character of the Articles and their capacity to operate across different substantive areas of international law (Badyou, 2022). The distinction prevents the law of responsibility from becoming a substitute for treaty interpretation or for the substantive rules of specialized legal regimes.

The sources of obligations capable of giving rise to responsibility are diverse. A state may incur responsibility through breach of a treaty obligation, customary international law, a general principle of law, or another binding rule applicable to that state. The source or form of the obligation does not alter the basic principle that non-conforming attributable conduct may entail responsibility. Al-Attiyah situates state responsibility within the wider body of public international law and emphasizes its applicability to international obligations regardless of their particular doctrinal source (Al-Attiyah, 2012). Crawford similarly rejects the proposition that the responsibility regime depends upon the formal source of the obligation breached (Crawford, 2013). What matters is that the obligation existed, bound the state, and applied at the time of the relevant conduct.

The temporal applicability of obligations is therefore essential. A state cannot be internationally responsible for breaching an obligation that was not binding upon it when the relevant act occurred. This principle reflects the broader prohibition on retroactive application of obligations. At the same time, temporal analysis becomes more complicated when conduct is continuing or when a series of acts extends across a period during which the applicable legal regime changes. Bolin demonstrates that continuing breaches require particular attention because the wrongful character of conduct persists for as long as the state remains in non-compliance with the international obligation (Bolin, 1995). The continuing effects of an act must be distinguished from a continuing act itself. A completed expropriation, for example, cannot automatically be classified as continuing merely because its economic consequences persist, whereas an unlawful detention or continuing failure to perform an ongoing obligation may remain wrongful throughout the period of non-compliance.

International responsibility also reflects the principle that states act through institutions and persons rather than through an independent physical agency. The legal personality of the state requires international law to identify whose conduct counts as state conduct. The conduct of legislative, executive, judicial, military, administrative, and other state organs is generally attributable to the state because those entities form part of its organizational structure. Greenwood's discussion of responsibility in the context of international humanitarian law demonstrates the direct attribution of the conduct of state organs, especially armed forces, to the state itself (Greenwood, 2008). The same principle applies beyond military contexts. A state cannot ordinarily avoid responsibility by arguing that a particular governmental branch acted autonomously, unlawfully under domestic law, or contrary to internal instructions if the actor was nevertheless functioning as a state organ.

The attribution rules are especially important where entities occupy an intermediate position between the public and private spheres. International law may attribute conduct to the state when an entity is empowered by domestic law to exercise elements of governmental authority and acts in that capacity. Hobe's analysis of private military and security companies illustrates the difficulty of distinguishing ordinary private contractual activity from the exercise of delegated public authority (Hobe, 2008). Lenhart likewise examines circumstances in which private entities may generate responsibility because of their relationship with state authority (Lenhart, 2007). These debates reflect a broader principle: privatization, delegation, or contracting cannot automatically insulate a state from international responsibility where functions of a governmental character are legally exercised on its behalf.

Attribution may also arise in relation to private persons or groups acting on the state's instructions or under its direction or control. This category has generated substantial jurisprudential debate because mere political sympathy, financing, logistical support, or influence cannot automatically transform private conduct into state conduct. Cassese's examination of the Nicaragua and Tadić jurisprudence shows that different tribunals have articulated different control standards in different legal contexts (Cassese, 2007). Griebel and Blöcken explain that the International Court of Justice reaffirmed a demanding effective-control approach to attribution in the Bosnia Genocide judgment (Griebel & Blöcken, 2008). The underlying concern is to preserve a genuine legal nexus between the state and the particular conduct while preventing states from using intermediaries to evade responsibility for actions they actually direct or control.

Effective control is therefore not merely a factual inquiry into whether one actor influenced another. It is a legal test directed toward the relationship between the state and the specific conduct at issue. Botta's analysis of effective control in international operations emphasizes the need to examine the actual capacity to direct or prevent the relevant conduct rather than relying only on formal institutional labels (Botta, 2017). Dannenbaum likewise argues that accountability becomes distorted when attribution follows nominal command arrangements without sufficient attention to operational control over particular acts (Dannenbaum, 2010). These insights are relevant not only to multinational operations but to the general doctrine of attribution wherever multiple actors participate in conduct and authority is institutionally divided.

The possibility of shared or multiple responsibility has further complicated the traditional bilateral model. Internationally wrongful conduct may involve several states, or may arise in institutional settings where states and international organizations exercise overlapping functions. Nollkaemper and Jacobs conceptualize shared responsibility as a framework for situations in which multiple actors contribute to harmful outcomes or breaches of international obligations (Nollkaemper & Jacobs, 2013). Balkieti similarly examines the allocation of responsibility where operations involve multiple participants and no single actor exercises exclusive control over every relevant act (Balkieti, 2013). Shared responsibility does not eliminate the need to

establish attribution and breach separately for each actor. Rather, it recognizes that contemporary international relations often involve interconnected conduct that cannot adequately be explained through an assumption that every wrongful outcome corresponds to a single responsible state.

An important conceptual distinction must also be drawn between attribution and causation. Attribution asks whether international law treats particular conduct as conduct of the state. Causation asks whether that conduct produced or contributed to a legally relevant injury. The two inquiries overlap in practical litigation but are analytically distinct. A governmental act may be attributable even if it is not the sole cause of harm, while private conduct may factually cause harm without being legally attributable to the state. Crawford stresses that the attribution rules are normative rules of legal connection rather than general theories of factual causation (Crawford, 2013). This distinction becomes particularly important at the remedial stage, because compensation requires analysis of injury and causal connection even though responsibility may have been established through breach alone.

The relevance of fault must likewise be determined by the primary obligation rather than assumed as a universal element. Some international obligations impose strict requirements independent of intention or negligence. Others require due diligence or reasonable preventive conduct, making the state's knowledge, foreseeability, available means, and response relevant to determining whether a breach occurred. Dupuy's treatment of obligations of conduct and obligations of result demonstrates the inadequacy of reducing all international obligations to a single fault-based model (Dupuy, 1999). Sajet's analysis of environmental and climate-related responsibility similarly illustrates how failures of prevention or due diligence may become internationally wrongful even where the causal chain is complex (Sajet, 2024). The correct inquiry is always what the relevant primary rule demanded and whether the state's conduct conformed to that standard.

Damage is equally variable in its doctrinal role. Some primary rules incorporate injury as part of the conditions for breach, while others protect collective or procedural interests that may be violated without proof of material loss. Crawford makes clear that injury is particularly significant in determining the content of reparation but need not be a universal constituent of the internationally wrongful act (Crawford, 2002). This explains why a state may be required to cease wrongful conduct or provide satisfaction even where no quantifiable economic damage has occurred. The law of responsibility thus protects legality itself as well as compensable interests.

The conceptual foundations of responsibility are therefore best understood as an integrated but differentiated framework. Attribution establishes the legal connection between conduct and the state. The applicable primary rule identifies the required standard. Breach occurs when attributable conduct fails to conform to that standard. Temporal rules determine whether the obligation applied and whether the wrongful act is completed, continuing, or composite. Circumstances precluding wrongfulness may exceptionally prevent conduct from being characterized as wrongful despite apparent non-conformity. Once responsibility is established, secondary consequences arise. This structure allows the doctrine to remain sufficiently general to operate across the international legal system while remaining sufficiently flexible to accommodate the differing content of substantive international obligations.

3. Conditions for the Establishment of State International Responsibility

The establishment of state international responsibility begins with the identification of an internationally wrongful act. The essential proposition is that every internationally wrongful act of a state entails its international responsibility. This apparently simple rule contains several distinct legal inquiries. It is necessary to identify conduct, determine whether that conduct is attributable to the state, establish the existence and content of a binding international obligation, and determine whether the conduct failed to conform to what the obligation required. Crawford explains that attribution and breach are cumulative rather than alternative requirements (Crawford, 2002). Conduct that is internationally unlawful in the abstract does not generate the responsibility of a particular state unless it is attributable to that state, while attributable state conduct does not entail responsibility unless it is inconsistent with an applicable international obligation.

The relevant conduct may consist of an act or an omission. International law does not privilege visible positive acts over failures to discharge legal duties. A state may violate international law by adopting legislation, issuing orders, using force, seizing property, or taking other affirmative measures. It may equally violate international law by failing to prevent prohibited conduct, failing to protect protected persons, failing to supervise public authorities, failing to investigate serious violations, or

failing to perform a treaty obligation requiring positive measures. Zaza recognizes omission as a conventional basis of international responsibility where the state was legally required to act (Zaza, 2011). The decisive question is therefore not whether the state physically caused the relevant event but whether the applicable international obligation required a form of conduct that the state failed to provide.

The distinction between acts and omissions is particularly significant for obligations of due diligence. Such obligations generally do not guarantee that a harmful event will never occur; rather, they require the state to take reasonable, appropriate, or necessary measures in light of the circumstances. The determination of breach therefore depends on the content of the legal standard and the state's conduct in relation to foreseeable risks. Sajet demonstrates the importance of due-diligence reasoning in the context of environmental and climate obligations, where responsibility may arise from insufficient preventive action even though multiple causal factors contribute to the underlying harm (Sajet, 2024). The broader principle is that the law of responsibility must distinguish a legally deficient failure to exercise required care from the mere occurrence of an undesirable outcome.

Attribution to state organs is the most direct form of attribution. Conduct by any organ of the state is generally treated as conduct of the state regardless of whether that organ exercises legislative, executive, judicial, administrative, or other functions. The international legal personality of the state encompasses the totality of its official institutional machinery. Greenwood confirms the direct attribution of official military conduct to the state in the law of armed conflict (Greenwood, 2008), while the principle is equally applicable to civilian governmental institutions. A state cannot avoid international responsibility by invoking its internal constitutional distribution of authority. From the perspective of international law, acts of a court, parliament, ministry, police authority, municipality, or other organ may constitute state conduct even where domestic law allocates them substantial institutional independence.

The conduct of state organs may remain attributable even when those organs exceed their authority or contravene internal instructions. This rule is necessary to prevent the state from relying on its own internal law to escape responsibility for official conduct. Crawford explains that ultra vires conduct remains attributable when the organ acts in an official capacity or under the appearance of public authority (Crawford, 2013). Without this principle, international responsibility could be systematically undermined whenever officials departed from domestic law, since the state could characterize the very unlawfulness of their action as a reason to deny attribution. The legal question therefore concerns the official character of the conduct rather than its conformity with internal instructions.

More difficult issues arise where the actor is not formally a state organ. International law may attribute conduct by an entity that is legally empowered to exercise governmental authority when that entity acts in the governmental capacity entrusted to it. The increasing delegation of public functions to nominally private bodies makes this rule especially important. Hobe's discussion of private security companies shows that contractual status alone does not determine attribution; the character of the powers exercised and the legal relationship to the state are decisive (Hobe, 2008). Lenhart similarly demonstrates that private entities may occupy positions in which their conduct engages state responsibility because they perform functions conventionally associated with public authority (Lenhart, 2007). At the same time, ordinary commercial activities remain private merely because the state purchases goods or services from the actor.

Private conduct may also become attributable when individuals or groups act on the state's instructions or under its direction or control. The controversy surrounding the appropriate control standard illustrates the need to distinguish general influence from control over particular conduct. Cassese explains that the Nicaragua judgment employed the effective-control standard in determining whether conduct by the Contras could be attributed to the United States (Cassese, 2007). The later Tadić approach adopted a broader overall-control standard in a different doctrinal context, but the International Court of Justice subsequently reaffirmed effective control for state-responsibility attribution (Griebel & Blöcken, 2008). The significance of this jurisprudence lies in its insistence that extensive support, financing, training, or coordination does not necessarily establish attribution of every act performed by the supported group.

The effective-control standard seeks to ensure that responsibility corresponds to a sufficiently close connection between the state and the wrongful conduct. Botta argues that effective control should be assessed functionally by examining actual authority in relation to the specific conduct rather than merely formal command arrangements (Botta, 2017). This approach is

particularly valuable where institutional responsibility is divided among several actors. It prevents attribution from becoming either excessively expansive, by attaching all conduct to a state that exercises only general influence, or excessively formalistic, by allowing responsibility to disappear behind complex organizational arrangements.

International law also recognizes that private conduct may subsequently become attributable where the state acknowledges and adopts the conduct as its own. This form of attribution is narrower than mere approval, endorsement, political sympathy, or failure to condemn. The state must effectively identify itself with the conduct in a manner sufficient to transform it into state conduct for the purposes of responsibility. Crawford emphasizes the exceptional character of this basis of attribution (Crawford, 2002). It is therefore necessary to distinguish the state's legal adoption of conduct from political rhetoric concerning acts originally performed by private persons.

Attribution becomes still more complex in multinational or cooperative institutional settings. Participation by several states in a common operation does not automatically mean that every act is attributable to every participating state. Balkieti emphasizes the need to identify the particular legal and operational relationships connecting each actor to the wrongful conduct (Balkieti, 2013). Nollkaemper and Jacobs similarly explain that shared responsibility requires careful disaggregation of the contributions, obligations, and legal connections of multiple actors (Nollkaemper & Jacobs, 2013). Multiple attribution is possible, but it must result from the application of attribution rules to each participant rather than from an assumption that collective involvement automatically produces collective responsibility.

Questions concerning the relationship between states and international organizations illustrate this difficulty. The fact that national personnel or resources are placed at the disposal of an international organization does not by itself resolve attribution. Effective control over the relevant conduct may remain with the contributing state, pass to the organization, or be divided in a manner permitting dual attribution. Dannenbaum criticizes attribution approaches that rely excessively on abstract institutional authority and argues for closer attention to effective operational control (Dannenbaum, 2010). Okada likewise analyzes the effective-control test at the intersection of state responsibility and the responsibility of international organizations (Okada, 2019). Ringart's examination of peace-support operations further demonstrates how attribution controversies may generate accountability gaps if legal responsibility is determined solely through formal institutional arrangements (Ringart, 2012).

Once attribution is established, the analysis turns to breach. A breach exists when the state's conduct is not in conformity with what an international obligation requires of it. The origin or form of the obligation does not alter this general test. Crawford explains that treaty obligations, customary rules, and other binding international obligations may all generate responsibility if applicable conditions are satisfied (Crawford, 2013). The substantive interpretation of the primary rule is therefore indispensable. One cannot determine breach by examining consequences alone; it is necessary to identify what legal standard applied and whether the state's conduct complied with that standard.

Obligations of result and obligations of conduct illustrate different forms that the breach inquiry may take. Where an obligation requires a particular result, failure to achieve that result may constitute non-compliance subject to the precise terms of the rule. Where an obligation requires due diligence, reasonable efforts, prevention, or regulation, breach depends upon the adequacy of state conduct rather than the mere occurrence of harm. Dupuy cautions against excessively rigid classification because international obligations may combine elements of conduct and result (Dupuy, 1999). The legal analysis must therefore focus on the text, purpose, context, and structure of the applicable obligation rather than imposing predetermined categories on every rule.

Fault becomes relevant only to the extent required by the primary rule. Some international obligations contain explicit mental elements, while others do not. State responsibility therefore cannot be reduced to a generalized negligence regime. Crawford rejects the proposition that intention or negligence constitutes an independent universal element additional to attribution and breach (Crawford, 2002). The state's knowledge or foreseeability may nevertheless be decisive where the substantive obligation is framed in terms of prevention, due diligence, reasonableness, knowledge, or risk. In such cases, fault-related concepts form part of the determination of breach because the primary rule itself makes them legally relevant.

Damage occupies a similarly qualified position. A wrongful act may exist without material injury where the violated obligation protects a legal interest whose breach is complete upon non-performance. Nevertheless, damage assumes greater significance when determining compensation and establishing the causal relationship between wrongful conduct and claimed

injury. Crawford distinguishes the existence of responsibility from the separate remedial issue of the injury that must be repaired (Crawford, 2013). This distinction explains why cessation or satisfaction may be appropriate even where monetary damage is difficult to quantify.

Causation becomes particularly important where multiple acts, actors, or background conditions contribute to injury. The law of responsibility does not require the wrongful conduct to be the sole factual cause of all harm, but reparation must be connected to injury attributable to the wrongful act. Nollkaemper's framework of shared responsibility demonstrates how complex causal situations may require differentiated assessment of contributions by multiple responsible actors (Nollkaemper & Jacobs, 2013). The existence of causal complexity does not eliminate responsibility, but it may affect the allocation and scope of reparation.

The temporal character of breach also affects responsibility. Some breaches occur instantaneously, while others continue over time. Bolin explains that a continuing breach persists for as long as conduct remains inconsistent with the international obligation (Bolin, 1995). The distinction is not merely descriptive. It may determine whether a tribunal has temporal jurisdiction, whether cessation remains possible, and how injury should be assessed. A completed act may produce lasting consequences without remaining legally continuous, while an ongoing failure to perform an obligation may generate a continuing wrongful situation.

Composite wrongful acts represent another temporal category. These arise where the primary rule defines the violation through a series of actions or omissions that, considered together, constitute wrongful conduct. Dupuy's discussion of the classification of international obligations demonstrates that the characterization of breach depends upon the structure of the primary rule rather than simply the number of acts involved (Dupuy, 1999). A sequence of independent violations does not automatically become a composite act. The series must possess the unity required by the applicable obligation.

The establishment of international responsibility therefore requires a disciplined analytical sequence. The relevant conduct must first be identified without confusing factual events with legal attribution. The applicable attribution rule must then connect the conduct to the state. The binding primary obligation must be identified and interpreted, its temporal applicability established, and the conduct assessed against the required standard. Any mental element, due-diligence requirement, damage threshold, or causal condition must derive from the primary rule or from the law governing legal consequences rather than being presumed as a universal element. This framework ensures that responsibility remains legally grounded while retaining sufficient flexibility to address the diversity of international obligations.

4. Circumstances Precluding Wrongfulness and the Legal Consequences of Responsibility

Even where conduct is attributable to a state and appears inconsistent with an international obligation, international law recognizes a limited set of circumstances in which wrongfulness may be precluded. These circumstances do not deny that the relevant conduct occurred, nor do they ordinarily erase the underlying international obligation. Instead, they operate as exceptional legal grounds preventing conduct that would otherwise constitute a breach from being characterized as internationally wrongful under specified conditions. Badyou provides a detailed conceptual treatment of justifications and excuses in international law and emphasizes the need to maintain the exceptional nature of such doctrines (Badyou, 2018). Lowe similarly distinguishes between grounds that affect wrongfulness and broader questions concerning responsibility, warning against treating exceptions as mechanisms capable of dissolving the binding character of international obligations (Lowe, 1999). The restrictive application of these circumstances reflects the fundamental principle that states should not be able to escape responsibility through unilateral appeals to convenience, political necessity, or domestic difficulty.

Consent constitutes one recognized circumstance precluding wrongfulness. Valid consent by a state to conduct that would otherwise violate an obligation owed to that state may prevent the conduct from being wrongful, provided the acting state remains within the scope of the consent. The legal validity of consent depends upon the authority of the consenting state, the genuineness of the consent, and its compatibility with overriding international norms. Badyou emphasizes that consent functions only within the limits actually accepted by the affected state (Badyou, 2018). Consent to one form of conduct cannot be presumed to authorize materially different action, nor can consent validate conduct prohibited by peremptory rules from which no derogation is permitted.

Self-defence may also preclude wrongfulness where conduct is taken in conformity with the requirements of the international law governing self-defence. This circumstance does not create an unrestricted exemption from international responsibility. The underlying use of force must satisfy the substantive conditions governing lawful self-defence, and the circumstance cannot be invoked to disregard independent obligations that continue to apply. Al-Attiyah's treatment of public international law situates self-defence within the exceptional legal framework governing the use of force rather than as a general discretionary justification (Al-Attiyah, 2012). The invocation of self-defence therefore depends upon compliance with the legal requirements attached to that institution and cannot be treated as a blanket defence to all internationally wrongful consequences arising during a defensive operation.

Countermeasures represent another carefully regulated circumstance. A state injured by a prior internationally wrongful act may, within strict legal limits, temporarily suspend performance of certain obligations toward the responsible state in order to induce compliance. Countermeasures are not punitive reprisals and cannot lawfully serve as instruments of unrestricted retaliation. Crawford explains that the law of countermeasures is closely connected to the secondary framework of responsibility because countermeasures respond to an existing breach and aim to secure cessation and reparation (Crawford, 2013). Their legality therefore depends on conditions such as prior wrongful conduct, proportionality, reversibility, procedural requirements, and respect for obligations that cannot be suspended. The institution demonstrates the decentralized character of international law while simultaneously seeking to constrain self-help within legal boundaries.

Force majeure applies where an irresistible force or unforeseen event beyond the state's control makes performance of the international obligation materially impossible. The threshold is demanding. Badyou explains that genuine impossibility must be distinguished from difficulty, inconvenience, increased cost, or political pressure (Badyou, 2018). The state generally cannot rely on force majeure where it substantially contributed to the situation or assumed the relevant risk. The doctrine reflects the principle that law cannot demand literal performance where events beyond the state's control render performance genuinely impossible, but its narrow construction is necessary to prevent ordinary administrative or economic problems from being transformed into general excuses for non-compliance.

Distress addresses situations in which an individual acting on behalf of the state has no reasonable means of saving their own life or the lives of persons entrusted to their care other than through conduct inconsistent with an international obligation. Lowe's broader examination of excuses illustrates the logic behind doctrines that respond to exceptional pressures without denying the existence of the legal rule (Lowe, 1999). Distress differs from necessity because it focuses on immediate danger to particular lives rather than the protection of an essential interest of the state or international community. It is unavailable where the conduct creates a comparable or greater peril or where the state contributed to the situation in a legally relevant manner.

Necessity is among the most controversial circumstances precluding wrongfulness because of its potential breadth. It may apply where non-compliance is the only way for a state to safeguard an essential interest against a grave and imminent peril, provided the conduct does not seriously impair an essential interest of the state or states toward which the obligation exists or of the international community as a whole. Badyou emphasizes that necessity must remain exceptional and subject to restrictive conditions (Badyou, 2018). Lowe likewise warns that expansive reliance on necessity could undermine the stability of international obligations if states were permitted to define essential interests and emergencies unilaterally without rigorous legal scrutiny (Lowe, 1999). Necessity is further excluded where the international obligation itself precludes reliance on necessity or where the invoking state contributed substantially to the situation.

The limits imposed by peremptory norms are particularly important. Circumstances precluding wrongfulness cannot authorize conduct contrary to obligations arising from peremptory norms of general international law. These norms occupy a superior position because the international community recognizes that no derogation is permitted from them. Crawford explains that the secondary rules of responsibility must operate consistently with the special legal consequences attached to serious breaches of peremptory obligations (Crawford, 2013). The existence of jus cogens therefore sets an outer boundary on consent, countermeasures, necessity, and other exceptional doctrines. A state cannot transform conduct prohibited by a peremptory norm into lawful conduct by obtaining bilateral consent or invoking national interest.

The invocation of a circumstance precluding wrongfulness does not necessarily eliminate every legal consequence. Some circumstances may suspend the characterization of conduct as wrongful without extinguishing questions concerning

compensation for material loss or the resumption of performance once the exceptional situation ends. Badyou's analysis demonstrates that justifications and excuses may have differentiated effects depending on their doctrinal basis and the obligation involved (Badyou, 2018). The legal consequences must therefore be assessed with precision rather than assuming that successful invocation removes all obligations between the parties.

Where no circumstance precludes wrongfulness, the establishment of an internationally wrongful act generates legal consequences. The first consequence is the continued duty of the responsible state to perform the obligation where performance remains possible and legally relevant. Responsibility does not ordinarily replace the original obligation with an optional duty to pay damages. Crawford emphasizes that secondary responsibility exists in addition to, rather than as a substitute for, the continuing binding force of the primary rule (Crawford, 2002). This principle prevents states from treating international obligations as instruments that may simply be breached in exchange for compensation.

Cessation is therefore a principal consequence of continuing wrongful conduct. Where the breach remains ongoing, the responsible state must terminate the conduct and restore compliance. Bolin's analysis of continuing breaches illustrates why cessation has special significance in cases where wrongful conduct persists over time (Bolin, 1995). Monetary compensation cannot adequately replace cessation where the underlying breach continues to violate the rights of another state or the interests protected by international law. Cessation restores legality prospectively, while reparation addresses the consequences already produced.

Assurances and guarantees of non-repetition may also be required where circumstances justify them. These measures are not automatic in every case. Their appropriateness depends upon the nature of the violation, the risk of recurrence, the seriousness of the breach, and the adequacy of existing institutional safeguards. Crawford treats guarantees of non-repetition as a distinct consequence directed toward preventing renewed violations rather than repairing past injury alone (Crawford, 2013). They may involve institutional reforms, procedural safeguards, training, legislative measures, or other steps tailored to the source of the violation.

The central remedial principle is full reparation for the injury caused by the internationally wrongful act. Reparation seeks, as far as possible, to eliminate the legal and material consequences of the violation. Crawford's treatment of reparation identifies restitution, compensation, and satisfaction as principal forms that may be used individually or in combination depending on the nature of the injury (Crawford, 2002). The appropriate form is determined by what is necessary to address the consequences of the breach rather than by a punitive theory of damages.

Restitution aims to re-establish the situation that existed before the wrongful act where this is materially possible and not grossly disproportionate to the benefit derived from restitution rather than compensation. It is conceptually the most direct form of reparation because it seeks restoration rather than monetary substitution. Zaza's treatment of responsibility emphasizes the restorative orientation of international reparation (Zaza, 2011). Restitution may include returning property, releasing unlawfully detained persons, revoking unlawful measures, or otherwise reversing the consequences of wrongful conduct. It may be impossible where circumstances have irreversibly changed or where restoration would impose a burden wholly disproportionate to its remedial value.

Compensation applies to financially assessable damage that is not remedied by restitution. It may cover both direct losses and other forms of economically measurable injury, subject to the requirement of a sufficient causal connection to the wrongful act. Crawford explains that compensation is remedial rather than punitive and must correspond to injury attributable to the breach (Crawford, 2013). This requirement makes causation especially important. Where multiple factors contribute to loss, legal analysis must determine what portion of the injury is sufficiently connected to the wrongful conduct to justify compensation.

Satisfaction addresses injury that cannot adequately be repaired through restitution or financial compensation, particularly moral, symbolic, reputational, or legal injury. It may take the form of acknowledgment of the breach, expression of regret, formal apology, or another appropriate measure. Zaza recognizes satisfaction as an established component of international reparation where non-material injury requires a response beyond monetary remedies (Zaza, 2011). Satisfaction must nevertheless remain proportionate and cannot be used as a vehicle for humiliating or punishing the responsible state.

Complex problems arise where several actors contribute to the wrongful situation. Nollkaemper and Jacobs demonstrate that shared responsibility challenges simple bilateral assumptions concerning causation and reparation (Nollkaemper & Jacobs, 2013). Balkieti likewise shows that multinational settings may require a differentiated assessment of attribution, breach, contribution, and injury (Balkieti, 2013). Multiple responsible actors may each bear legal consequences even where their precise contributions differ. The existence of shared responsibility should not produce an accountability vacuum merely because causal contributions are institutionally complex.

The invocation and enforcement of responsibility remain among the most difficult aspects of the international legal system. Unlike domestic legal orders, international law lacks a universally compulsory centralized enforcement authority with jurisdiction over every dispute. Responsibility may therefore be invoked through diplomatic channels, judicial or arbitral proceedings where jurisdiction exists, institutional mechanisms, countermeasures, or other lawful procedures. The decentralized nature of enforcement does not eliminate the legal character of responsibility, but it can affect practical effectiveness. Crawford acknowledges that the law of responsibility establishes legal consequences even though their implementation depends upon procedural and institutional mechanisms existing elsewhere in international law (Crawford, 2013). The continuing gap between legal responsibility and effective enforcement remains one of the doctrine's central structural challenges.

5. Conclusion

The international responsibility of states constitutes one of the indispensable foundations of the contemporary international legal order. International obligations would lose much of their practical and normative significance if their violation produced no legal consequences. The law of state responsibility supplies the secondary framework through which international law determines when conduct is attributable to a state, when that conduct constitutes a breach of an international obligation, whether exceptional circumstances preclude wrongfulness, and what consequences follow once responsibility has been established. Its importance therefore extends far beyond any particular branch of international law. It provides a common legal structure capable of operating in relation to treaty obligations, customary rules, obligations of prevention, human rights commitments, environmental duties, rules governing interstate relations, and other substantive regimes.

The principal finding of this analysis is that the internationally wrongful act is built upon two fundamental and cumulative elements: attribution and breach. Attribution establishes the normative connection between conduct and the state, while breach determines whether that conduct conforms to the international obligation binding upon the state at the relevant time. Neither element can substitute for the other. Factually harmful conduct does not automatically generate state responsibility if it cannot legally be attributed to the state, and attributable conduct does not entail responsibility merely because it causes undesirable consequences. The applicable international obligation must be identified, interpreted, and applied to the facts.

This structure clarifies the role of concepts that have historically generated doctrinal uncertainty. Damage is not an independent universal requirement for the existence of every internationally wrongful act. Some obligations may be breached before material injury occurs, particularly where international law imposes duties of prevention, protection, procedure, or due diligence. Damage becomes especially important at the stage of reparation, where the responsible state may be required to compensate injury caused by the wrongful conduct. The same qualification applies to fault. Intention, negligence, knowledge, and foreseeability are not universal additional requirements imposed by the secondary law of responsibility. Their relevance depends upon the content of the primary rule. Where an obligation requires due diligence or knowledge, those elements become relevant to breach; where the obligation imposes an objective standard, a separate inquiry into subjective fault may be unnecessary.

The rules of attribution demonstrate that international responsibility is based on legal organization rather than merely physical causation. Because states act through organs, officials, institutions, and in some cases delegated entities, international law must identify which acts and omissions are legally treated as state conduct. Conduct by state organs is attributable regardless of the particular branch of government involved. Internal illegality or excess of authority does not ordinarily prevent attribution where officials act in their official capacity. This principle is essential because a state could otherwise evade responsibility simply by arguing that the official responsible for the violation acted contrary to domestic law.

The expanding role of private entities in functions traditionally associated with public authority does not fundamentally alter the structure of responsibility. Delegation cannot become a mechanism for escaping international obligations. Where private entities exercise governmental authority, act on state instructions, or operate under sufficiently direct state control, their conduct may fall within established attribution rules. At the same time, international law properly avoids attributing ordinary private conduct merely because a state provides general support, financing, political encouragement, or contractual engagement. The requirement of a meaningful legal nexus protects both accountability and doctrinal precision.

The distinction between attribution and causation is equally important. Attribution concerns whether conduct belongs legally to the state for purposes of responsibility. Causation concerns the relationship between wrongful conduct and injury. Confusing these questions may lead either to excessive responsibility based solely on factual association or to unjustified denial of responsibility because the state was not the sole immediate cause of the injury. Contemporary international disputes increasingly involve multiple actors, complex institutional relationships, and shared contributions to harmful outcomes. The legal framework must therefore remain capable of recognizing multiple or shared responsibility without abandoning the requirement that attribution and breach be established in relation to each responsible actor.

The temporal dimension of responsibility further confirms the need for careful legal characterization. A wrongful act may be completed at a particular moment, may remain continuing for as long as the state stays in non-compliance, or may arise through a series of acts that together constitute a composite breach. These distinctions affect not only legal classification but also jurisdiction, the duty of cessation, and the assessment of reparation. The persistence of harmful consequences is not necessarily equivalent to the continuation of the wrongful act itself. International adjudication therefore requires careful separation of continuing effects from continuing unlawful conduct.

Circumstances precluding wrongfulness perform a necessary but restricted function. Consent, lawful self-defence, countermeasures, force majeure, distress, and necessity recognize that exceptional situations may affect the legal characterization of otherwise non-conforming conduct. Their existence does not weaken the binding character of international obligations. On the contrary, their restrictive conditions confirm the general rule that obligations must be performed. These circumstances cannot be transformed into broad political defences based on inconvenience, economic pressure, domestic necessity, or unilateral assessments of national interest. Their application must remain exceptional and legally disciplined.

Peremptory norms impose an additional and particularly significant limitation. The international legal system cannot permit states to rely on ordinary circumstances precluding wrongfulness to justify conduct contrary to norms from which no derogation is permitted. This limitation reflects the gradual recognition that certain obligations protect interests extending beyond the bilateral relations of individual states. State responsibility therefore participates in a broader transformation of international law from a system centered exclusively on reciprocal interstate interests toward one that also protects fundamental interests of the international community.

Once responsibility has been established, the responsible state remains bound by the underlying international obligation where performance is still possible. Responsibility does not ordinarily convert an international obligation into a choice between compliance and payment. This principle is essential to the normative authority of international law. A state cannot simply calculate the economic cost of violation and treat compensation as an alternative mode of performance. Where wrongful conduct continues, cessation restores compliance. Where repetition remains a credible risk, assurances or guarantees of non-repetition may be required.

Reparation complements cessation by addressing the consequences already caused by the internationally wrongful act. The principle of full reparation seeks, as far as legally and materially possible, to eliminate the consequences of the breach. Restitution has priority where restoration of the prior situation is feasible and proportionate. Compensation addresses financially assessable injury not remedied through restitution. Satisfaction responds to non-material injury that cannot adequately be repaired by restoration or money. These remedies may operate separately or cumulatively depending on the character of the violation and the injury produced.

The legal framework nevertheless faces important practical limitations. The international legal system remains decentralized, and the existence of responsibility does not automatically guarantee effective enforcement. Jurisdictional limitations, political power disparities, institutional fragmentation, difficulties of proof, and the absence of universally compulsory dispute settlement may prevent legal responsibility from producing immediate practical consequences. These

weaknesses should not be confused with the absence of legal rules. They instead reveal a distinction between the substantive existence of responsibility and the institutional mechanisms available for enforcing it.

A further challenge arises from increasingly complex forms of international cooperation. States act through coalitions, international organizations, transnational institutions, contractors, shared operations, financial structures, and networks of public and private entities. Such complexity can make attribution more difficult, but it should not create spaces in which responsibility disappears. The appropriate response is not to abandon traditional legal principles but to apply them more carefully by identifying the actor, the legal authority exercised, the applicable obligation, the degree of control, the nature of the conduct, and the causal relationship to the resulting injury.

The legal foundations of international responsibility ultimately demonstrate that sovereignty and responsibility are not opposing concepts. Sovereignty gives states international legal personality and freedom of action within the international order, but that freedom exists within a framework of binding obligations. Responsibility is one of the mechanisms through which sovereign equality acquires legal meaning because every state is subject to the consequences of internationally wrongful conduct. A system that recognized sovereign rights without responsibility would reduce international obligations to political preferences; a system that imposed responsibility without clear attribution and breach standards would undermine legal certainty. The contemporary doctrine seeks to maintain the necessary balance between these concerns.

The continuing development of the law should therefore focus on strengthening doctrinal clarity, improving mechanisms for the invocation and enforcement of responsibility, and adapting attribution principles to increasingly complex institutional relationships without diluting their legal requirements. The enduring value of the law of state responsibility lies precisely in its generality. It does not depend on the particular subject matter of the primary obligation. Instead, it supplies a stable framework through which international law can respond to wrongful state conduct across changing political, technological, environmental, and institutional conditions. By linking binding obligations to identifiable legal consequences, state responsibility remains one of the principal mechanisms through which the international legal order seeks to preserve legality, accountability, and the effective performance of international obligations.

Ethical Considerations

All procedures performed in this study were under the ethical standards.

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Conflict of Interest

The authors report no conflict of interest.

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