ILSA MAGAZINE

INTERNATIONAL LAW STUDENTS ASSOCIATION
CHAPTER HASANUDDIN UNIVERSITY
2023/2024

ABOUT US

What is ILSA?

ILSA IS A NON-PROFIT ASSOCIATION OF STUDENTS AND YOUNG LAWYERS DEDICATED TO THE STUDY AND PROMOTION OF INTERNATIONAL LAW. GENERALLY, LEGAL EDUCATION IN THE US. AND ELSEWHERE FOCUSES UPON DOMESTIC OR LOCAL LAW. ILSA IS DEDICATED TO SUPPLEMENTING THIS TRADITIONAL APPROACH WITH OPPORTUNITIES FOR STUDY, RESEARCH AND CAREER NETWORKING WHICH CONCENTRATES ON INTERNATIONAL AND TRANSNATIONAL LAW. ILSA UNHAS IS AN OFFICIAL CHAPTER OF ILSA HEADQUARTER, WASHINGTON DC.

IN THE YEAR 2007 BEGAN DEVELOPING ILSA BACK UP ALL THE EFFORT AND DESIRE OF STUDENTS PART OF INTERNATIONAL LAW AT THAT TIME TO BECOME EXTERNAL UKM REGISTERED. ON DECEMBER 14 2007 AND HADASA KS BELO, SH. ELECTED AS PRESIDENT OF ILSA ON THE FIRST ANNUAL MEETING.
IN 2008 PRECISELY ON MAY 31, 2008, ILSA CHAPTER UNHAS OFFICIALLY JOINED THE INTERNATIONAL AFTER FULFILLING THE ENTIRE PROCEDURE, BASED ON THE DECISION OF THE PRESIDENT OF THE INTERNATIONAL ILSA, IAN CASTELO, L.LB., L.LM.

IN THE CURRENT PERIOD OF 2023/2024, ILSA CHAPTER UNHAS IS LED BY MOHAMMAD AKHSAN ADHYATMA.

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ACADEMIC ADVISOR

DR. BIRKAH LATIF, S.H., M.H., LL.M.

With profound pleasure and proud we celebrate the launch of the Third Publication of the Magazine. On behalf of the International Department Law we would like to extend a very warm appreciation for the Law Faculty Dean and Vice Deans, the ILSA Chapter UNHAS 2023/2024 and all of whom have volunteered to contribute to the success of the ILSA Magazine in the future.

We hope the ILSA Magazine would bring benefit in align with theory and implementation of international issues. Have a glory of success for the upcoming release and spread the updated information.

PRESIDENT ILSA CHAPTER UNHAS

ILSA Chapter UNHAS has gone through lots of process. Hereby, through our publishing of ILSA Magazine, you can see all of the hardwork and achievements that we have earned. It is an honor for me to serve my time as an ILSA Folks. Without ILSA, I may not be the person I am today. I hope many years to come, ILSA would be the sole place for students to enhance their capabilities to learn international law whether it is through theories or practice.

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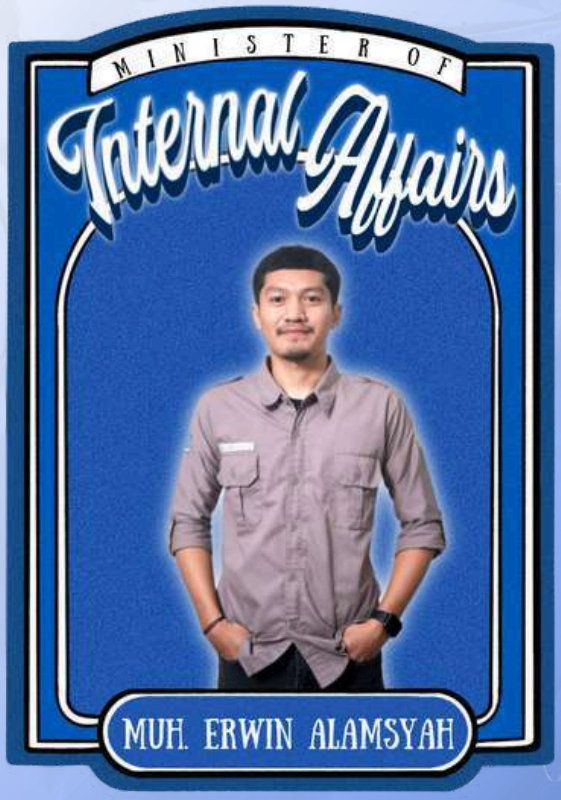

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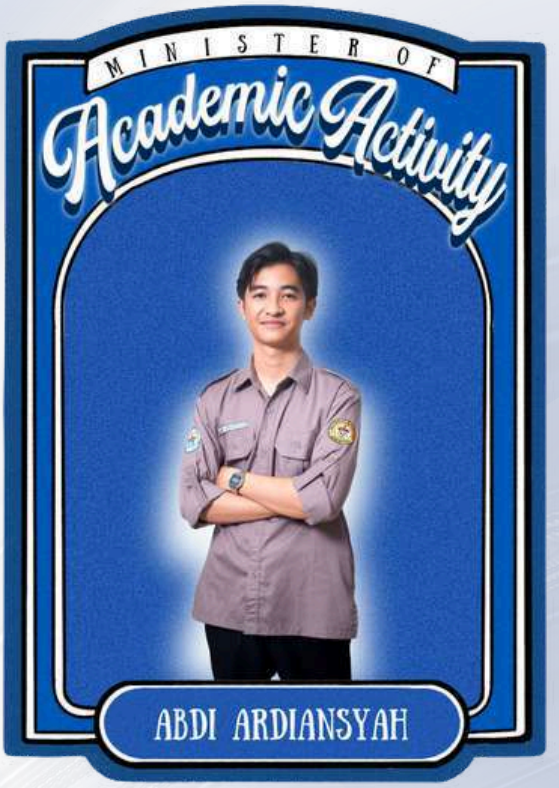

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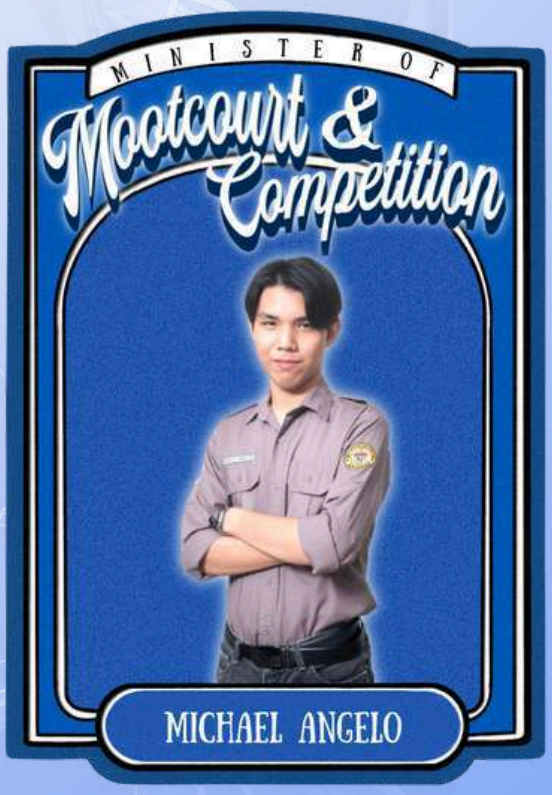

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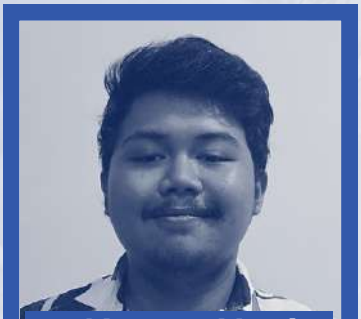

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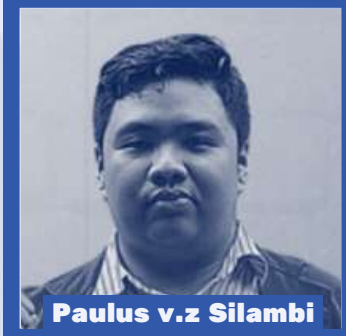

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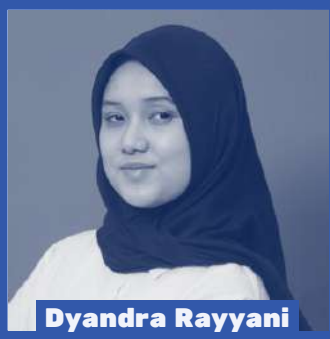

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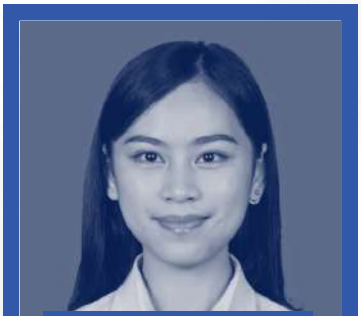
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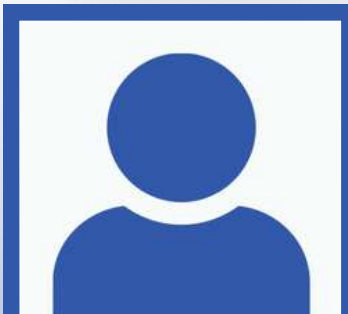
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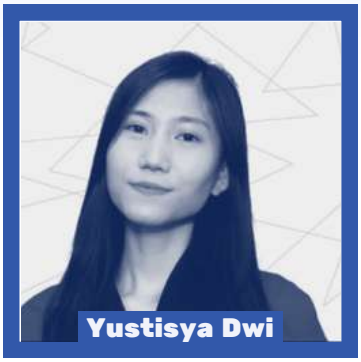

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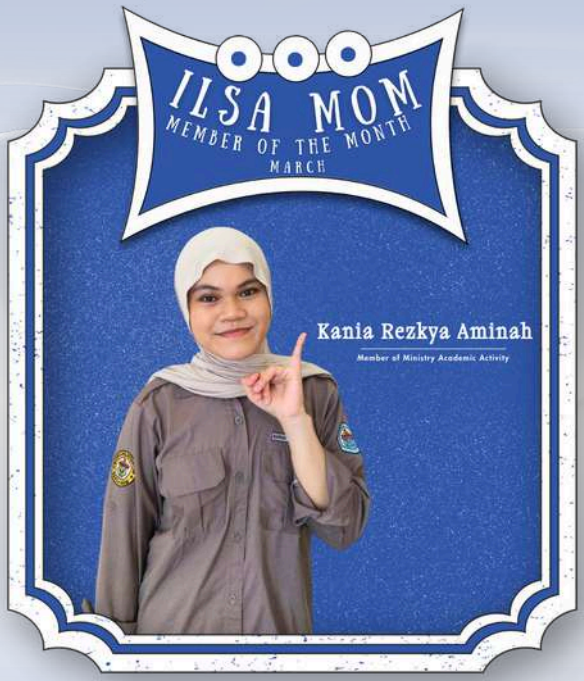

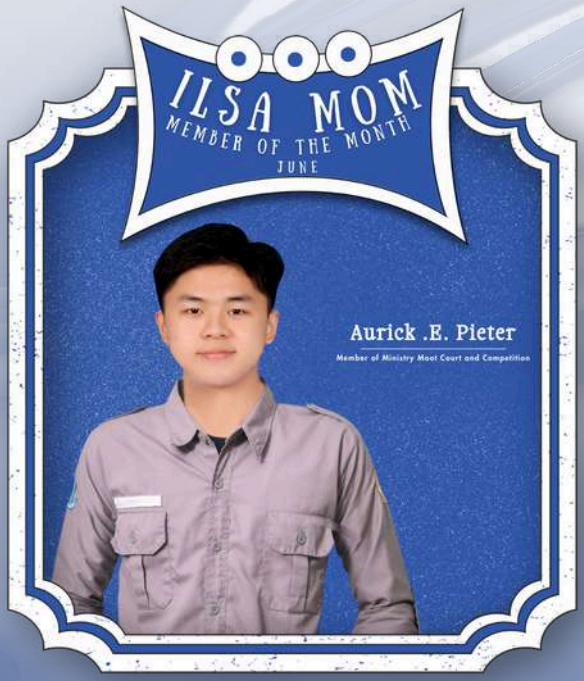

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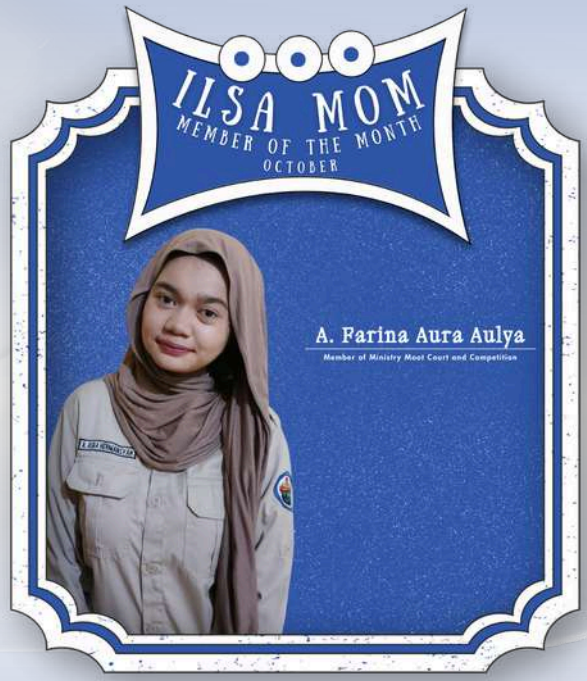

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MINISTRY HIGHLIGHTS

MOOT COURT AND COMPETITIONS

Most Outstanding Delegates of Makassar Model United Nations

MINISTRY HIGHLIGHTS

MOOT COURT AND COMPETITIONS

Champion Team of International Moot Court Competition
Universiti Sultan Zainal Abidin (UNISZA) 2024

MINISTRY HIGHLIGHTS

MOOT COURT AND COMPETITIONS

The 'Spirit of Intention' Award on the 8th International Dispute Negotiation Competition 2024

MINISTRY HIGHLIGHTS

MOOT COURT AND COMPETITIONS

Second place in the Youth Conservation Trial, organized by the Directorate General of Law Enforcement - Ministry of Environment and Forestry

MINISTRY HIGHLIGHTS

INTERNAL AFFAIRS

Welcome to ILSA is an annual event designed to attract and support students interested in joining ILSA, providing essential information for those aspiring to become members

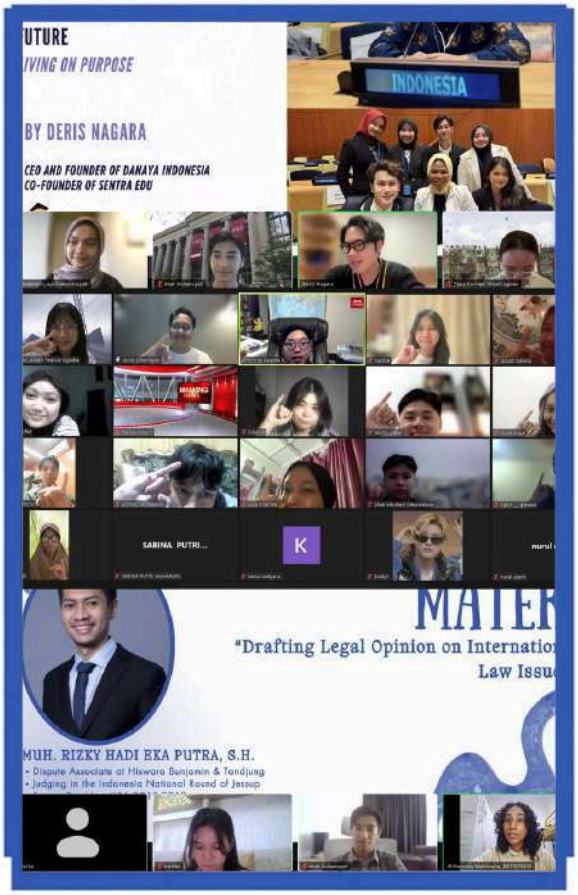
MINISTRY HIGHLIGHTS

INTERNAL AFFAIRS

ILSA Anniversary is a commemorative event by ILSA, merging with the Alumni Gathering to serve as a platform for strengthening the bond among ILSA members, both current and former. This Year, the working program is collaboratively managed by Internal Affairs and Public Relation

MINISTRY HIGHLIGHTS

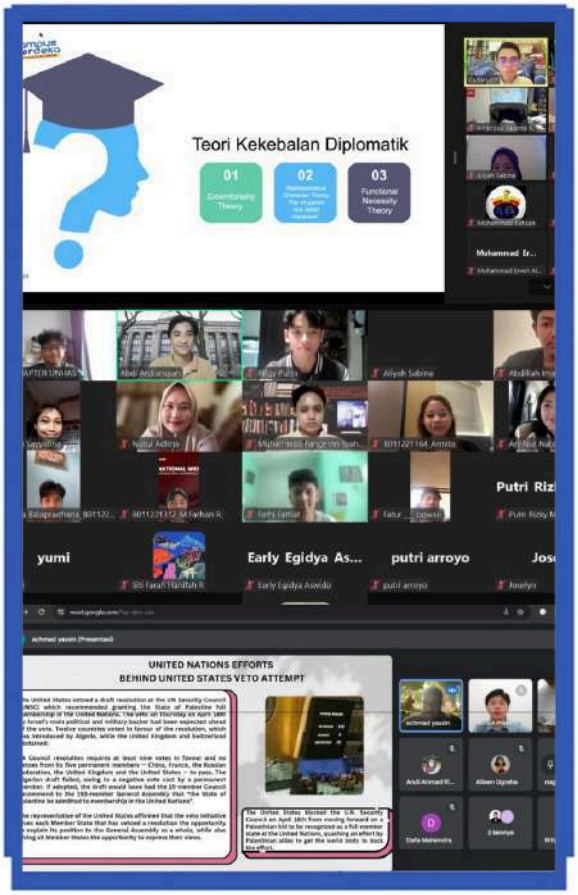
ACADEMIC ACTIVITY



ILSA Coaching Clinic (ICC) is focusing in enhancing practical and theorical skills (including Legal Research & Writing) and provide insight into career prospects in international law. This year, ILSA has conducted 6 series of ICC which the latest series was disclosing about Effective Strategies for Preparing and Succeding in IISMA by our Inspiring Alumni and IISMA Awardee - Michigan State University (2021), A. Nuril Zamharir Haris, S.H.

MINISTRY HIGHLIGHTS

ACADEMIC ACTIVITY



ILSA Forum Discuss (IFD) is regular discussion between ILSA members aims to foster a deeper understanding of Contemporary International Law. IFD #6 as the last series of this working program was bringing a topic about Legality of The Relocation of USA Embassy to Jerusalem. The material was presented by the President of ILSA Chapter UNHAS 2023/2024, Mohammad Akhsan.

MINISTRY HIGHLIGHTS

FINANCE

ILSA Bazaar serves as a fundraising initiative through food sales and sport activities. Its purpose is to build connections among internal ILSA members and generate financial support for the organization.

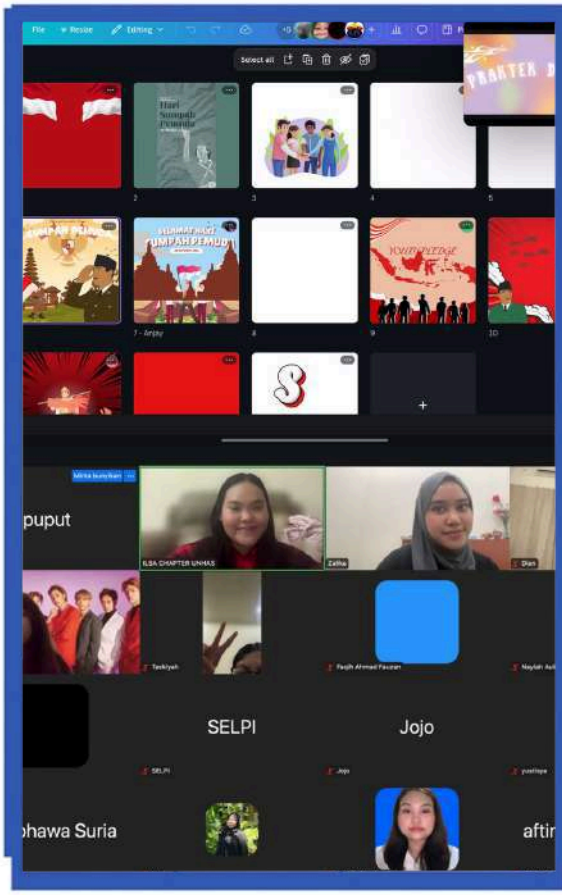
MINISTRY HIGHLIGHTS

FINANCE

ILSA Merchandise involves selling secondhand items featuring distinctive ILSA designs, serving as a means of generating financial resources for the organization.

MINISTRY HIGHLIGHTS

INFORMATION AND TECHNOLOGY



ILSA Design Class is designed to educate members on crucial aspects of Information & Technology, specifically Graphic Design and Social Media Management.

MINISTRY HIGHLIGHTS

PUBLIC RELATION

ILSA Charity Day is an annual working program which is conducted every Ramadhan. This year, we go with the theme "A Million Dreams: Harmony in Ramadhan", aims to support Street Children Care Community (KPAJ)

MINISTRY HIGHLIGHTS

PUBLIC RELATION

ILSA Internship program is designed to help member developing real-world skills and set the stage for career plan. This year, we offer Internship Opportunities in Kantor Imigrasi Kelas I TPI Makassar, Kementerian Hukum & HAM Sulawesi Selatan, Kantor Bea Cukai Makassar, Konsulat Jenderal Republik Indonesia (Vietnam) dan Lapas Takalar.

MINISTRY HIGHLIGHTS

PUBLIC RELATION

In observing International Day of Person with Disabilities, ILSA Chapter UNHAS conducted ILSA Obervance Day with the theme "See Beyond the Surface: Raising Awareness, Inspiring Inclusivity". This working Program was collaboratively managed by Public Relations and Academic Activity. This event attended by Students from various High Schools in Makassar with insightful materials presented by speakers from different fields such as Lecturer of Law School University of California, Berkeley and Chairman of Gemparkan (Gerakan Mahasiswa dan Pemuda Untuk Kesetaraan)

MINISTRY HIGHLIGHTS

ENGLISH COCURRICULAR 2024

E-LAW COLLECTION

INTERNATIONAL LAW STUDENT ASSOCIATION
CHAPTER HASANUDDIN UNIVERSITY

Human Trafficking in a New Form (Case Study : The Germany Ferienjob Case)

ILSA E-LAW
April 2024 Edition

The Future of International Law!

Written by:
Mohammad Akhsan Adhyatma Amir

Edited by:
Zalika Mawaddah Priyamos

ABSTRACT

The *ferienjob* program is a job market based program that anyone in Germany could apply as a part-time job. The *ferienjob* program allows students to earn extra money during the holiday and it does not have any correlation or any impact to the students' academics. This program allows national or international students to take part in this program. Usually, this program relies on heavy and physical labor, such as lifting cardboard boxes, wrapping packages, washing dishes at a restaurant and other types of heavy physical labor. Since 2022, there is an irresponsible group that took advantage of this program by committing fraud to more than 1.000 university students in Indonesia to be exploited in this program and guaranteeing the students that it would have an impact on their academics by disguising this part-time job as an international internship. Many of the students had reported this incident since they realized that this internship is not in line with their majors at their home university. Upon hearing some of the reports, the Indonesia Embassy Office in Germany reported this case to the government of Indonesia and stated that the *ferienjob* program is not a kind of internship and has zero relation to their academics. Indonesian authorities then classify this case as a transnational organized crime in the form of human trafficking.

INTRODUCTION

The beginning of 2024 knocked the public with a new type of transnational organized crime in the form of human trafficking. This new method included a frauding system to the victims and in the end resulted in the violation of their rights by exploited in physical labors. These victims are university students in Indonesia from various provinces, specifically from 33 different universities. Victims were lured with the idea that the *ferienjob* program in Germany is an internship and would affect their academics and it would be distributed as credit scores for the students. However, in reality the ferienjob program is a part-time program open to the public, whether it is for domestic or foreign students that are currently studying in Germany. The main objective of this program is only to open opportunities for these students to gain extra money during the holiday to pay off their student loans or for the students' private expenses.

Although this program is not legally in one of Indonesia's Ministry of Education, Culture, Research, and Technology working programs. It has been recommended by the Indonesian Embassy in Germany, but it was denied because Indonesia academic calendars schedule is not the same as German academic calendars. As of today, Indonesia's police have established 7 suspects from this case who have different roles to successfully conduct the plan.

Firstly, ER (39) is one of the suspects that has a role in signing the collaboration paper with PT SHB with universities in Jakarta. Secondly, A (37) has the role to select the students for the liability to take part in the ferienjob internship. Thirdly, SS (65) has the role to pack neatly the ferienjob as one of the Ministry of Education, Culture, Research, and Technology working programs and is also suspected to socialize this as “opportunity” to achieve high credit scores. Then, AJ (52) has a role to facilitate the students and intervene to keep the students from quitting the program. And lastly, MZ (60) is the mastermind behind this unlawful program. He has a specific role in borrowing funds in order for the success of the program. While the other 2 suspects are still located in Germany.

RESULTS & DISCUSSION

Human trafficking in the eyes of Indonesia legal aspect is those people who are a victim of recruitment, transportation, displacement, delegation by physical violence, kidnapping, force, misuse of position or fraud with the intention to be exploited. After Indonesia's police department has set out the list of all 7 suspects, they eventually sentence these suspects under Law No. 7/2021 regarding Humantrafficking Article 4, 11, 15. These suspects are charged with 3 to 15 years in prison and are being fined for Rp.600.000.000. Not only for individual charges, but the suspect's related company, PT Cvgen and PT Sinar Harapan Bangsa, rights to conduct all functions has been revoked.

The modernization of the global world has brought us to another dark side. Another way of crimes to be developed with newer methods. The term of human trafficking is not something new to recent ears, but, as it is coming to the more modern age, the section where this type of crime has entered a new term. Transnational Organized Crimes (TOC) is defined as illegal activities conducted by groups or networks acting in concert, by engaging in violence, corruption or related activities in order to obtain, directly or indirectly, a financial or material benefit. Transnational organized crime occurs when these activities, or these groups or networks, operate in two or more countries.

Human trafficking as a part of TOC is a violation to the human rights aspect. The right to not be exploited is set forth in numerous conventions in which its application has involvement in the violation of TOC specifically in human trafficking. The United Nations Convention Against TOC has included human trafficking as its threshold and even its own protocol. Article 5 of Convention Against TOC explains the subject as well as the material of the crime, in which if a person or persons individually or by groups, organizing or complying to the said offense is considered as an unlawful act.

Indonesia has taken all the necessary measures to end the exploitation that has been done by the suspects. In line with the International Convention on Civil and Political Right (ICCPR), Article 2(3)(a) for ensuring the rights or freedoms that are recognized to be violated and directly affected an immediate remedy to the case.

CONCLUSION

Since the world moved into a more modernized era, human trafficking has increased in prevalence. International relations began to expand after World War II, but this also aided in the emergence of new criminal activities. The rights to not be exploited should always be respected and it must be protected at all cost, whether it is from the national or international scale. The act committed by the suspects is in line with the regulations. The suspects intention related to their financial life and committing fraud has fulfilled the mens rea and actus reus element of human trafficking.

International and national legal framework has been provided to prevent any threats to every individual. Whether it is internationally or nationally, the ferienjob case is already being taken care of, as the suspects have been detained and soon be punished for their unlawful action.

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- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (came into force 25 December 2003).
- International Covenant on Civil and Political Right [“ICCPR”], opened for signature 16 December 1966, 999 UNST 171 (entered in force 23 March 1976)

BIOGRAPHY OF AUTHOR

Mohammad Akhsan Adhyatma Amir grew up in Makassar. At this moment, he enrolled in his third-year in the Faculty of Law Universitas Hasanuddin. He is focusing his study in the international law field, specifically in international human rights law and international humanitarian law. Currently, he is the President of the International Law Student Association Chapter Universitas Hasanuddin 2023/2024 Period. He has a broad experience in international law related competitions, such as International Moot Court Competitions (IMCC) in which some of those competitions are the Phillip C. Jessup International Moot Court Competition, International Humanitarian Moot Court Competition, University of Sultan Abdul Zainal International Moot Court Competition. Not only in IMCC, but also he had competed in the Louis M. Brown International Client Consultation Competition.

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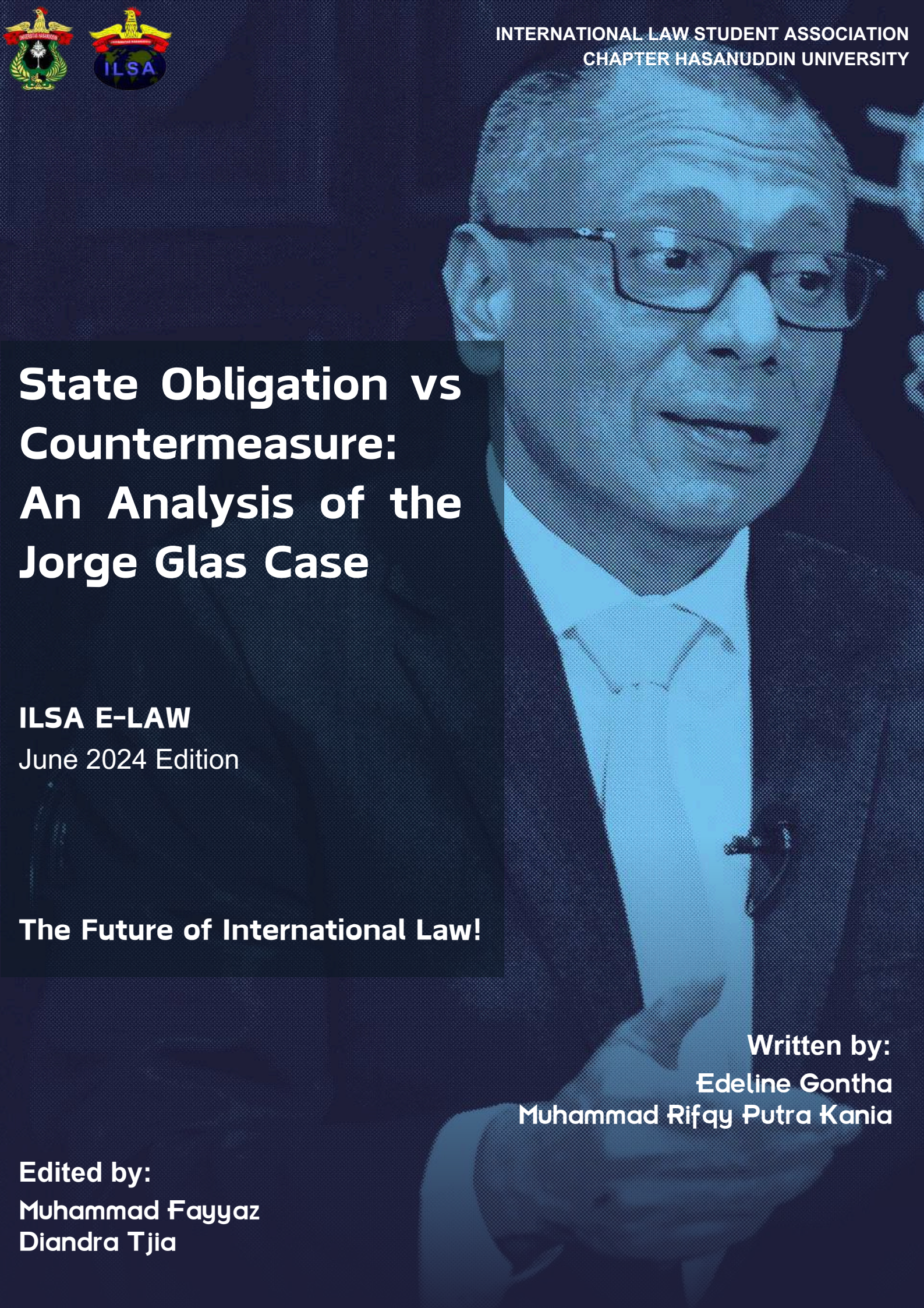


State Obligation vs Countermeasure: An Analysis of the Jorge Glas Case

ILSA E-LAW
June 2024 Edition

The Future of International Law!

Written by:
Edeline Gontha
Muhammad Rifqy Putra Kania

Edited by:
Muhammad Fayyaz
Diandra Tjia

ABSTRACT

On 5 April 2024 there was a forced entry by Ecuadorian armed police and military units at the Mexican embassy located in Quito to safely secure Jorge Glas, the former vice president of Ecuador. This was due to an official letter sent by the Mexican government urging Ecuador to immediately establish a safe route to Mexico for Mr. Glas. What Mexico did was an act that was not in accordance with international law practices, which made Ecuador dare to enter the Mexican embassy. On the other hand, Ecuador's actions are also unjustified on the grounds of disrespecting the diplomatic buildings. This article will discuss the validity of Mexico in granting asylum to Mr. Glas, using a statutory approach by analyzing relevant conventions and regulations related to asylum and conducting comparative case studies. Furthermore, this article will show Ecuador's actions that broke into the Mexican embassy can be categorized as proportional countermeasures by using case analysis of relevant conventions related to countermeasures.

INTRODUCTION

The case of the Embassy of Mexico in Ecuador, Quito (Quito case) occurred as a result of the actions of Mexico regarding the given asylum to Mr. Jorge Glas, the former Vice President of Ecuador (2013-2017). Mr. Glas was convicted of embezzlement and bribery in two separate cases. The case of the Brazilian company, Odebrecht, resulted in a six-year prison sentence. He was then sentenced to eight years in prison for his role in a scheme that collected bribes for public procurement. He was previously arrested and imprisoned on 15 December 2017. However, after only three years of his sentence, he was released on 20 April 2020, due to health reasons. After that, Mr. Glas took the chance to reside at the Mexican embassy from 17 December 2023. Eventually, his asylum was officially granted on 5 April 2024. The foreign secretary of Mexico, Alicia Bárcena, followed up on this matter through a diplomatic note to the Ecuadorian government, respectfully requesting that they ensure a safe passage for Mr. Glas to Mexico. This resulted in the Ecuadorian police and military forces forcibly entering the Mexican embassy and escorting Mr. Glas to safety.

Asylum itself in international law refers to a form of protection granted by a country to foreign nationals or residents. The right to seek asylum is the right to seek protection in another country from persecution. Such a right is declared in Article 14(1) of the Universal Declaration of Human Rights (UDHR). To meet the requirements for asylum, an individual must demonstrate that they have experienced persecution or fear of future persecution based on factors such as race, nationality, religion, political opinion, or membership in a particular social group.

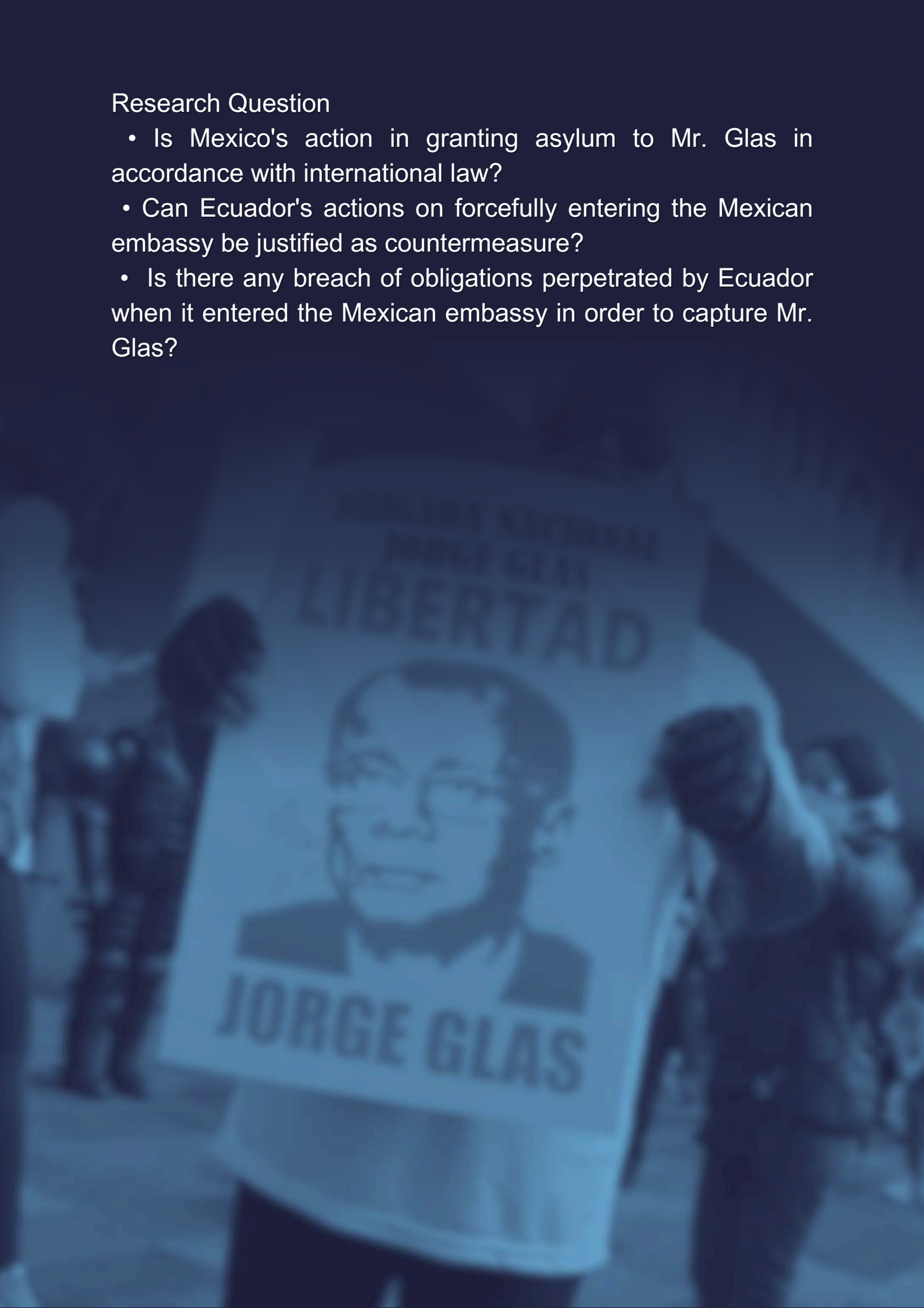
There are three types of asylum: (1) Territorial asylum, which is granted within the territorial bounds of the offering state which requires the seeker to be within the territory of the offering state; (2) Neutral asylum which is given to troops of belligerent states as a sign of neutrality of the offering country; and (3) Extraterritorial asylum, which grants asylum within the extraterritorial fields of a country such as embassy, which this paper will discuss in this article on whether Mexico can exercise such protection to Mr. Glas under international law.

Responding to Mexico's action on granting asylum to Mr. Glas, Ecuador forcibly entered the Mexican embassy in Quito in order to secure Mr. Glas. This article will continue to discuss whether this action of Ecuador be categorized as a countermeasure. Countermeasure itself is an action taken to retaliate against acts that violate international law so that the violating state is aware of its unlawful actions.

In order to determine whether Ecuador's action towards the Mexican embassy can be categorized as a countermeasure, we have to further examine whether there is a breach of obligation committed by Ecuador. A country has the obligation to respect the inviolability of diplomatic premises, which refers to the buildings or part of the buildings and the land and together with all contents or facilities of a diplomatic building, as in this case it is specifically referred to as the buildings. In light of the above, the following questions arose.

Research Question

- Is Mexico's action in granting asylum to Mr. Glas in accordance with international law?
- Can Ecuador's actions on forcefully entering the Mexican embassy be justified as countermeasure?
- Is there any breach of obligations perpetrated by Ecuador when it entered the Mexican embassy in order to capture Mr. Glas?



RESULTS & DISCUSSION

Mexico's action on granting diplomatic asylum to Mr. Glas

Mr. Glas' attempt to invoke his right of seeking asylum was accepted by Mexico by giving him diplomatic asylum. Diplomatic asylum is a form of asylum where a country grants protection to individuals within its diplomatic premises, such as embassies or consulates. This differs from territorial asylum which requires a person to be in that state's territory to request for protection. Diplomatic asylum is not yet accepted in international law, however it has been a common practice in Latin America, including Mexico and Ecuador. The paper will begin to review the possible legal basis for asylum given by Mexico to Mr. Glas.

Referring to UDHR, Under Art 14(2) it is stated that "this right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations." Similar provision can also be found in the Convention and Protocol Relating to the Status of Refugees that both in its introductory note that stated

"... the Convention does not apply to those for whom there are serious reasons for considering that they have committed war crimes or crimes against humanity, serious non-political crimes, or are guilty of acts contrary to the purposes and principles of the United Nations."

Here, Mr. Glas was charged with bribery and embezzlement in Ecuador. Bribery is the act of giving, or receiving money or other valuable items with the corrupt aim to influence public officials in discharging his official duties.

While embezzlement itself is the fraudulent act of taking and misusing funds that is not for the intended purposes, committed by public officials. Both are considered a non-political crime as it primarily lacks political ideologies, aims, or challenges to the government but focuses on the satisfaction of the individual committing it.

Furthermore, embezzlement is one of the forms of corruption mentioned in Article 17 and 22 of the United Nations Convention Against Corruption (UNCAC). Although the convention does not explain what is the meaning of embezzlement, the act of embezzlement falls within the category of misappropriation by public officials. While bribery falls under Article 15 of the UNCAC. In the convention's highlight on Chapter IV, it also emphasizes that countries around the world have agreed to fight corruption in every aspect including the prosecution of the offenders, which Mexico clearly protects Mr. Glas from. Therefore we can conclude that the act of Mr. Glas is not in line with the principle against corruption that has been held by the UN.

However, Mexico can claim that its action is in line with the Convention on Diplomatic Asylum (Caracas Convention) which both Mexico and Ecuador are parties to that justifies Mexico's action of granting asylum to Mr. Glas despite its non-recognition in International Law. This article will continue to analyze the relevant provisions of the Caracas Convention. Article II of the Caracas Convention states that "Every State has the right to grant asylum; but is not obligated to do so or to state its reasons for refusing it." Meaning Mexico does not need to explain itself regarding its whole action of giving the asylum requested from Mr. Glas.

But the existence of Article III of the Caracas Convention will make it hard for Mexico to rely on this very convention. The article sets restrictions for certain individuals, including those who are wanted for common crimes, or already convicted.

But since the essence of the convention is to grant asylum for those of the persecution of political offense, also noting that Article IV of the convention assigns the responsibility of determining the “nature of the offense” to the asylum-granting state, it is for Mexico to prove that Mr. Glas’ persecution is purely political and not linked to common crimes.

Note that common crimes mean those of non-political ones as explained in this article above. Also remember that Mr. Glas has already been convicted as a criminal in December 2017. The similarity of this situation can be found in the Haya de la Torre case, where Mr. Haya was also an accused criminal seeking asylum. In Mr. Haya's case, the court concluded that his given asylum was unlawful for it did not satisfy the Caracas convention considered his status as a criminal. Aware of the holes in Mexico’s action of granting asylum to Mr. Glas, another question arose, whether Ecuador’s action of forcibly entering the Mexican Embassy in Quito can be justified which will be assessed below.

Ecuador’s action justification as countermeasure

Countermeasures are retaliatory actions taken by one state against another in response to a violation of international law. This action is reflected in Article 22 of the ARSIWA. Referring to the Gabcikovo case, there are two thresholds set for a lawful countermeasure. The first threshold is the violation threshold, which requires that the state targeted have committed a violation of international law.

The violation must be attributable to the targeted state's organ or agent, and it must have serious consequences that cause significant harm to the injured state.

The second threshold is the proportionality threshold, which is stipulated in Article 51 of ARSIWA. It ensures that the countermeasure is proportional to the violation or action committed by the targeted state. It must be directly and logically related to the violation, not exceed the level of damage caused by the targeted state, and seek to encourage compliance with international law. The principle of proportionality states that the actions taken must be commensurate with the intended goal and proportionate to the violation. The principle of proportionality ensures that the countermeasure is used in a lawful and responsible manner, not taken excessively, and balanced with the violation to avoid causing further harm.

In the Quito case, the violation threshold lies in Mexico's action on granting Diplomatic Asylum to Mr. Glas that fails to satisfy all requirements to be granted protection as discussed earlier. The second threshold regarding the proportionality, referring to the Gabcikovo case, stated that the measures taken must be reversible. Here Ecuador's action of forcibly entering the Mexican embassy may be considered as proportional based on this provision, for they have retreated their forces after obtaining Mr. Glas where the Mexican Embassy has returned to its original state, further giving assurance to Mexican officials which will be discussed later on in this article.

The Naulilaa case further adds the thresholds for a lawful countermeasure, that are (1) countermeasure must be taken in response to a previous international wrongful act of another state, (2) directed against that state, (3) taken after a prior call upon the responsible state offer to negotiate, and (4) it must be proportionate as we discussed above. Based on the Article 2 of ARSIWA.

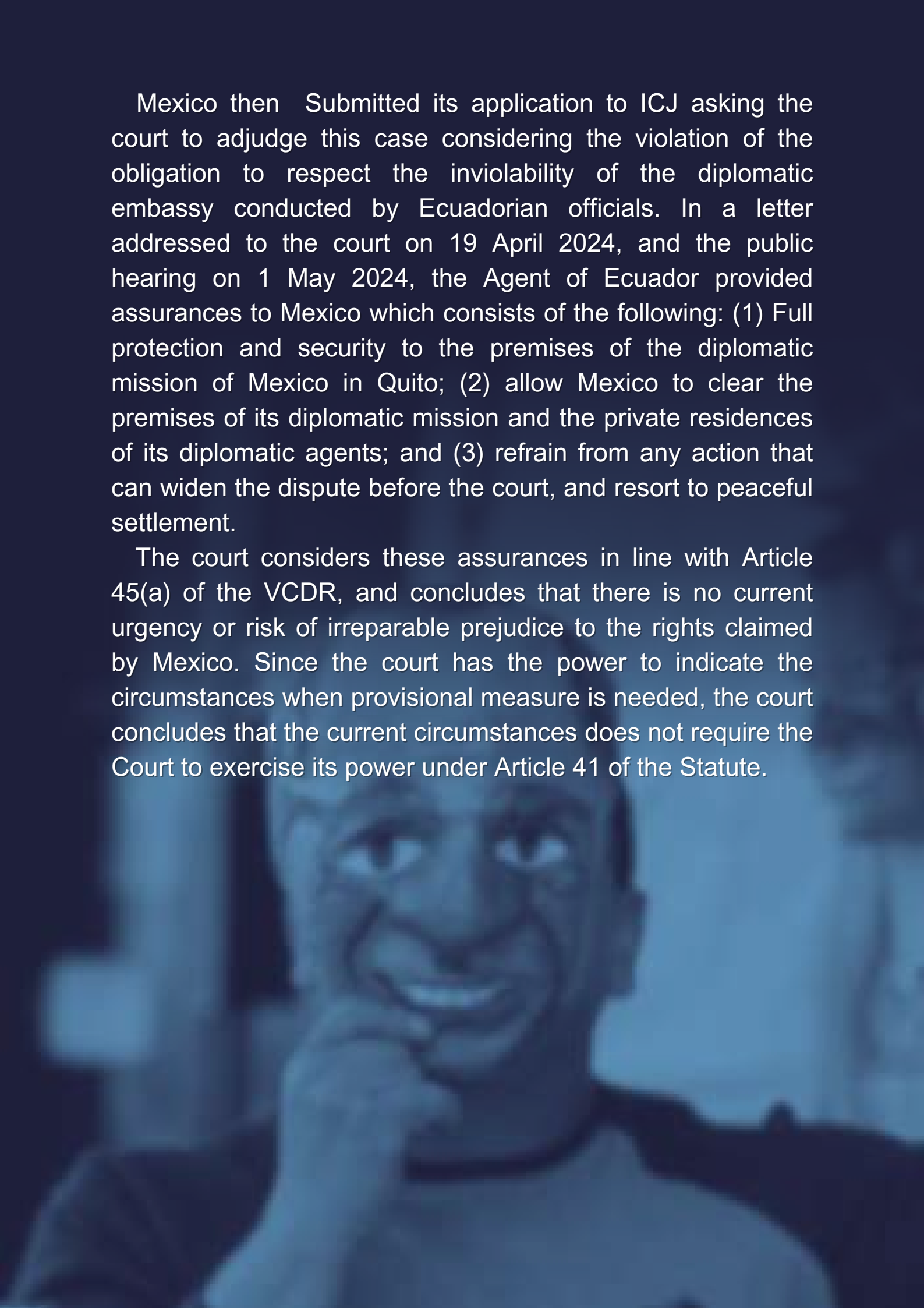
It can be concluded that Mexico has constituted an internationally wrongful act by unlawfully granting asylum to Mr. Glas and does not comply with the international obligation set in the UNCAC. The attack that Mexico conducted was in fact directed against Mexico through its embassy. Regarding the prior call to negotiate, there were attempts made by the Ecuadorian government the first one when it asked for Mexico's permission to enter its embassy in Quito to arrest Mr. Glas on 1 March 2024, and later on 29 January 2024 where the Ecuadorian Foreign Ministry sent a letter to the Ambassador of Mexico, regarding the illegality of the granted diplomatic asylum to Mr. Glas. However these attempts did not receive positive feedback and thus did not lead to any resolution, and the Ecuadorian forces eventually raided the Mexican embassy. However, the conditions of a lawful countermeasure must also realize Article 50 of ARSIWA provides that "countermeasures shall not affect various legal obligations …"

Obligation to respect the inviolability of diplomatic premises

The obligation to respect the premises of a diplomatic mission falls within Article 22 of the Vienna Convention on Diplomatic Relations (VCDR) which both Mexico and Ecuador are parties to. The article establishes the principle of inviolability of diplomatic mission buildings. This means that the premises of the mission, such as embassies are immune from search, requisition, attachment, or execution. Furthermore the article sets out that agents of the receiving state may not enter them without the consent of the head of the mission. The article also obliges the receiving state to take all appropriate steps to protect the premises of the mission against any intrusion or damage. Here, the conduct of Ecuadorian forces who forcibly entered the Mexican embassy was without any consent of the Mexican authorities therefore making it illegal.

Mexico then Submitted its application to ICJ asking the court to adjudge this case considering the violation of the obligation to respect the inviolability of the diplomatic embassy conducted by Ecuadorian officials. In a letter addressed to the court on 19 April 2024, and the public hearing on 1 May 2024, the Agent of Ecuador provided assurances to Mexico which consists of the following: (1) Full protection and security to the premises of the diplomatic mission of Mexico in Quito; (2) allow Mexico to clear the premises of its diplomatic mission and the private residences of its diplomatic agents; and (3) refrain from any action that can widen the dispute before the court, and resort to peaceful settlement.

The court considers these assurances in line with Article 45(a) of the VCDR, and concludes that there is no current urgency or risk of irreparable prejudice to the rights claimed by Mexico. Since the court has the power to indicate the circumstances when provisional measure is needed, the court concludes that the current circumstances does not require the Court to exercise its power under Article 41 of the Statute.



CONCLUSION

The granting of diplomatic asylum by Mexico to Mr. Glas constitutes a practice that is not recognized under international law, even though Mr. Glas is facing charges of embezzlement and bribery in his home country, Ecuador, which falls within the category of non-political crimes. However, several arguments opposing this asylum grant assert that it contravenes principles of international law. Glas' criminal conduct violates the principles set in United Nations Convention against Corruption (UNCAC), therefore making Mr. Glas not feasible to enjoy his rights under Article 14(2) and making him impossible to satisfy the requirement of an asylum seeker based on Convention and Protocol Relating to the Status of Refugee. This conduct continues to not satisfy the Caracas Convention, which governs diplomatic asylum and has been ratified by both Mexico and Ecuador. This convention restricts asylum grants to individuals sought for ordinary crimes, whereas Mr. Glas has been imprisoned since 2017 for embezzlement and for bribery. Considering the precedent set by the Haya de la Torre case, which did not deem similar asylum grants valid and left their legality open to further examination, the situation remains contentious.

Although Mexico would argue that this is in line with Caracas Convention Article II which states that "each state shall have the right to grant asylum without stating the reasons for granting or refusing it".

This is restricted to persons wanted for ordinary crimes or persons who have been convicted, but as the essence of the convention is to grant asylum to those persecuted in political offenses then Mexico must be able to prove the form of persecution Mr. Glas experienced and that it is not related to other ordinary crimes.

On the other hand, Ecuador's breach of the Mexican embassy also cannot be justified as a countermeasure, even when it fulfills both elements of the thresholds set out in the Gabchikovo case along with the three thresholds set out in the Naulilaa case under ARSIWA Article 51. Although the conditions have been met, Ecuador still violates the obligations in international law in respecting diplomatic buildings stipulated in Article 22 of the VCDR, which contravenes with Article 50 of the ARSIWA where countermeasures shouldn't interfere with State’s obligations. Ecuador's still bound by the obligation to protect the Mexican embassy in Quito pursuant to Article 22 and Article 45(a) of VCDR.

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Satellite Cybersecurity: Integration of International Law and Geopolitical Strategy

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ABSTRACT

Satellite cybersecurity has become a critical issue in the digital age, given the vital role satellites play in global communication, navigation, and surveillance. The integration of international law and geopolitical strategy in satellite cybersecurity is essential to ensure the sustainability and security of satellite operations amid increasingly complex cyber threats. This article examines the importance of international cooperation in establishing an effective legal framework to address cyber threats against satellites. Furthermore, it analyzes how national and regional interests influence cybersecurity policies and measures through a geopolitical lens. In this context, collaboration among nations is essential to develop global cybersecurity standards capable of protecting critical infrastructure from attacks that could disrupt international stability. This study emphasizes that the synergy between international law and geopolitical strategy can create a safer and more resilient environment for satellite operations in the future.

INTRODUCTION

In an era where digital communication, navigation, and surveillance are paramount, satellites have become indispensable assets to global infrastructure. As the reliance on satellite technology grows, so does the vulnerability of these systems to cyber threats. Satellite cybersecurity has thus emerged as a critical area of focus, necessitating robust protection measures to safeguard the integrity and functionality of satellite operations. The complexity and sophistication of cyber attacks on satellite systems demand a comprehensive approach that integrates international law and geopolitical strategy.

The intersection of international law and satellite cybersecurity is crucial for several reasons. Firstly, satellites often operate across multiple jurisdictions and serve international communities, making unilateral national policies insufficient for comprehensive protection. International law provides a framework for cooperation, coordination, and conflict resolution among states, creating a basis for shared norms and standards in satellite cybersecurity. Without such a legal framework, efforts to secure satellite systems could be fragmented and less effective, leaving significant gaps that could be exploited by malicious actors.

Geopolitical strategy plays an equally vital role in the realm of satellite cybersecurity. The geopolitical landscape influences how states perceive and respond to cyber threats, shaping their cybersecurity policies and practices. National interests, regional power dynamics, and strategic alliances impact the prioritization and implementation of cybersecurity measures. In some cases, geopolitical rivalries can exacerbate the threats to satellite security, as state and non-state actors engage in cyber espionage, sabotage, and other forms of digital warfare. Therefore, understanding and integrating geopolitical considerations into cybersecurity strategies is essential for developing resilient and effective defense mechanisms.

This introduction sets the stage for a detailed exploration of how international law and geopolitical strategy converge to address the challenges of satellite cybersecurity. By examining the legal frameworks and strategic imperatives that underpin international cooperation in this field, this study aims to highlight the pathways to enhanced security and stability in satellite operations. The synergy between international law and geopolitical strategy not only enhances the protection of critical infrastructure but also fosters a collaborative environment where states can work together to mitigate the risks posed by cyber threats.

Satellites have become indispensable assets in global infrastructure in an era dominated by digital communication, navigation, and surveillance. However, this reliance on satellite technology also exposes them to increasingly complex and serious cyber threats. Ensuring satellite cybersecurity has thus become a paramount concern, necessitating robust protection measures to safeguard their integrity and functionality.

To fully grasp the importance of satellite security, it is crucial not only to consider the consequences of cyber attacks but also to identify the underlying vulnerabilities and potential threats. Satellites are vulnerable to various types of attacks due to technical factors such as insecure communication protocols, weak encryption, and inadequate intrusion detection systems. Potential threats include data theft, service disruptions, and even unauthorized takeover of satellite control. Unfortunately, concrete case studies and comprehensive prior research identifying these vulnerabilities and threats remain limited. Further studies are needed to fill these knowledge gaps and inform more effective security policies and strategies.

In this context, the role of international legal frameworks and geopolitical strategies in addressing satellite cybersecurity challenges becomes increasingly evident. International law enables cross-border cooperation and the establishment of shared norms to enhance satellite security, while geopolitical strategies influence the prioritization and implementation of cybersecurity measures at both national and international levels.

Therefore, this study aims to explore how international legal frameworks and geopolitical strategies can converge to address the challenges of satellite cybersecurity. By gaining a deeper understanding of technical vulnerabilities and potential threats, it is hoped that more resilient and effective defense mechanisms can be developed to protect this critical global infrastructure.

Research Question

- How can international law frameworks be adapted to effectively address the unique challenges of satellite cybersecurity?
- What are the primary geopolitical factors influencing national policies on satellite cybersecurity?
- How do international cooperation and legal agreements contribute to the resilience of satellite systems against cyber threats?

RESULTS & DISCUSSION

International Legal Framework Addresses Cybersecurity Challenges

International legal instruments, such as the Outer Space Treaty of 1967 and the regulations of the International Telecommunication Union (ITU), form the foundation of current space governance. However, these instruments primarily address the peaceful use of outer space and the allocation of satellite orbits and frequencies, leaving significant gaps in the realm of satellite cybersecurity. As cyber threats to satellite systems become more sophisticated and prevalent, these frameworks must evolve to provide robust protections against cyber attacks.

The first step in adapting international law to the challenges of satellite cybersecurity is to identify the specific gaps within existing treaties and regulations. Current legal frameworks lack detailed provisions on the technical and operational aspects of cybersecurity for satellites. Moreover, they do not provide sufficient enforcement mechanisms to ensure compliance or address breaches effectively. The rapid pace of technological advancement further complicates this issue, as legal frameworks often struggle to keep up with emerging cyber threats.

To address these gaps, the development of new international treaties or protocols focused specifically on satellite cybersecurity is essential. These new instruments should incorporate detailed cybersecurity standards and best practices, developed in collaboration with cybersecurity experts. For instance, they could mandate the implementation of robust encryption methods, regular security assessments, and incident response protocols for satellite systems. Furthermore, establishing mechanisms for the periodic review and updating of these frameworks is crucial to ensure they remain relevant in the face of evolving technologies and threats.

Effective implementation of these adapted legal frameworks requires the creation of international monitoring bodies responsible for overseeing compliance with cybersecurity standards. These bodies could conduct regular audits and assessments of satellite systems to ensure adherence to international norms. Additionally, robust dispute resolution mechanisms should be developed to handle conflicts arising from cybersecurity incidents involving satellites, potentially through specialized arbitration panels or international courts focused on space law and cybersecurity. Clear penalties for non-compliance, such as economic sanctions or restrictions on satellite operations, would further enhance enforcement.

The role of non-state actors, particularly the private sector, is also critical in adapting international law for satellite cybersecurity. Engaging satellite manufacturers, operators, and cybersecurity firms in the development and implementation of international standards can enhance the effectiveness of these frameworks. Public-private partnerships can facilitate information sharing and collaboration on threat intelligence and best practices. Moreover, establishing international certification and accreditation programs for satellite cybersecurity can provide private entities with a means to demonstrate compliance with global standards.

Lastly, fostering international cooperation and information sharing is essential for building resilience against cyber threats to satellite systems. Multilateral agreements can facilitate the exchange of cybersecurity threat intelligence and best practices among nations. Joint cybersecurity exercises and training programs can enhance the capabilities of international stakeholders in responding to satellite cyber threats. Aligning new legal frameworks with existing cybersecurity initiatives, such as the Budapest Convention on Cybercrime, can also ensure a comprehensive approach to addressing these challenges.

By adapting international law frameworks to address these aspects, the global community can develop a more resilient and effective approach to safeguarding satellite systems against the growing threat of cyber attacks. This proactive and collaborative effort will help ensure the continued security and stability of satellite operations in an increasingly interconnected and technologically advanced world.

Satellites are pivotal to modern global infrastructure, facilitating vital functions such as digital communication, navigation, and surveillance. However, their critical role also exposes them to increasingly sophisticated cyber threats. Protecting satellite systems from these threats requires robust international legal frameworks tailored specifically to satellite cybersecurity.

Current international legal instruments, like the Outer Space Treaty of 1967 and regulations by the International Telecommunication Union (ITU), primarily address the peaceful use of outer space and the allocation of satellite orbits and frequencies. However, these frameworks often lack detailed provisions for addressing the unique cybersecurity challenges faced by satellites. Unlike traditional cybersecurity concerns, satellite cybersecurity requires advanced security measures and surveillance due to their critical functions and vulnerabilities.

Moreover, the global landscape lacks a unified approach in how nations secure their satellites. While some countries have begun to implement stringent cybersecurity measures for their satellite systems, many others lag behind or have yet to develop comprehensive strategies. This disparity underscores the need for international collaboration and standardized legal frameworks to ensure consistent and effective satellite cybersecurity practices worldwide. Distinguishing between conventional cybersecurity and satellite cybersecurity is crucial. Satellite systems operate in a distinct environment where security and surveillance requirements are more advanced and complex. This distinction necessitates specialized legal frameworks that can address these unique challenges comprehensively.

Moving forward, it is imperative to develop new international treaties or protocols specifically focused on satellite cybersecurity. These frameworks should incorporate detailed cybersecurity standards and best practices tailored to satellite operations. They should also establish mechanisms for regular review and updates to keep pace with technological advancements and emerging threats.

Furthermore, engaging both state and non-state actors, particularly private satellite operators and cybersecurity experts, is essential. Public-private partnerships can enhance information sharing, collaboration on threat intelligence, and the development of effective cybersecurity strategies for satellite systems.

By addressing these issues through enhanced international legal frameworks and fostering global cooperation, the international community can better safeguard satellite systems against cyber threats. This proactive approach will ensure the continued reliability and security of satellite operations in an increasingly interconnected world.

Geopolitical Factors that Influence National Policy

1. National Security Concerns

National security is a primary driver of satellite cybersecurity policies. Satellites are indispensable for military and defense operations, providing crucial services such as reconnaissance, secure communications, and navigation. Ensuring the cybersecurity of these assets is paramount for maintaining operational readiness and strategic advantage. Governments prioritize securing military satellites to prevent disruptions that could compromise national defense capabilities. Additionally, satellites play a critical role in intelligence gathering, including signals intelligence (SIGINT) and imagery intelligence (IMINT). Protecting the data collected and transmitted by these satellites from espionage and interception is a crucial aspect of national cybersecurity strategies.

2. Economic Interests

The economic significance of satellites also shapes national cybersecurity policies. The commercial satellite industry, which includes telecommunications, broadcasting, and internet services, is a substantial economic sector. Protecting these commercial interests from cyber attacks that could disrupt services and cause economic losses is a priority for national policies. Satellites support various critical infrastructure sectors such as energy, transportation, and finance by enabling GPS navigation, weather forecasting, and remote sensing. National cybersecurity policies aim to protect these services from disruptions that could have widespread economic and societal impacts, ensuring the stability and resilience of critical infrastructure.

3. Regional Dynamics

Geopolitical alliances and regional dynamics play a significant role in shaping satellite cybersecurity policies. Alliances such as NATO and regional organizations like the European Space Agency influence national cybersecurity strategies through collaborative frameworks and joint initiatives. Member states align their policies to enhance collective security and share threat intelligence. Conversely, geopolitical rivalries, especially among major powers like the United States, China, and Russia, drive the development of robust cybersecurity measures. Nations perceive cyber threats to satellites as potential tools of geopolitical competition and conflict, prompting them to strengthen their defenses to maintain strategic advantage.

4. Technological Capabilities

The technological capabilities and cyber expertise of a nation significantly influence its satellite cybersecurity policies. Countries with advanced cyber capabilities can implement sophisticated defensive measures and develop offensive cyber strategies, shaping their approach to satellite cybersecurity. Investments in research and development of cybersecurity technologies for satellites are driven by national priorities,

Nations that prioritize innovation and technological leadership are more likely to develop cutting-edge cybersecurity solutions and integrate them into their policies, enhancing their overall cybersecurity posture.

5. Policy Coordination

Effective satellite cybersecurity policies require coordination among various government agencies, including defense, intelligence, communications, and space agencies. Interagency collaboration ensures a comprehensive approach to securing satellite systems. National policies are also shaped by international cooperation agreements and frameworks. Countries engage in bilateral and multilateral partnerships to enhance their cybersecurity posture, share best practices, and coordinate responses to cyber incidents affecting satellite systems. This cooperation helps create a unified and resilient approach to satellite cybersecurity on a global scale.

6. Legal and Regulatory Frameworks

Domestic legislation and international law play critical roles in shaping national policies on satellite cybersecurity. National policies are underpinned by domestic laws and regulations that establish standards, requirements, and enforcement mechanisms. These legal frameworks ensure compliance and provide a basis for prosecuting cybercriminals. International legal instruments, such as treaties and conventions, influence national policies by providing a framework for cooperation and establishing norms for state behavior in cyberspace. Nations align their domestic policies with international obligations to foster a collaborative global cybersecurity environment, enhancing the protection of satellite systems.

7. Strategic and Economic Competitiveness

The competitive nature of space exploration and satellite technology development drives nations to adopt stringent cybersecurity measures. Protecting intellectual property and technological advancements from cyber theft is crucial for maintaining competitive advantage in the global market.

Nations with a strong presence in the satellite market, such as the United States and European countries, develop comprehensive cybersecurity policies to protect their market interests and reputation as reliable providers of satellite services. By addressing these geopolitical factors, nations can formulate effective satellite cybersecurity policies that protect their interests and contribute to global stability, ensuring the security and resilience of satellite operations in an increasingly interconnected and technologically advanced world.

Satellites are integral to modern global infrastructure, serving critical roles in digital communication, military operations, economic activities, and intelligence gathering. As such, safeguarding satellite systems from cyber threats is paramount, driven by a complex interplay of geopolitical factors that shape national cybersecurity policies. National Security Concerns are central to satellite cybersecurity policies, particularly for military and defense operations. Satellites enable secure communications, reconnaissance, and intelligence gathering (SIGINT and IMINT), making their protection essential to maintain national defense capabilities and strategic advantage.

Economic Interests also heavily influence cybersecurity policies, as the commercial satellite industry supports telecommunications, broadcasting, internet services, and critical infrastructure sectors like energy and finance. Protecting these sectors from cyber attacks is crucial to ensure economic stability and resilience against disruptions. Regional Dynamics play a significant role through geopolitical alliances (e.g., NATO, regional organizations), which shape national cybersecurity strategies. These alliances foster collective security, facilitate threat intelligence sharing, and align policies to counter cyber threats amid geopolitical rivalries among major powers.

Technological Capabilities and cyber expertise determine cybersecurity strategies.

Advanced nations invest in sophisticated defensive measures and offensive strategies to maintain technological leadership and enhance overall cybersecurity posture, crucial in protecting satellite systems from evolving cyber threats. Policy Coordination among defense, intelligence, communications, and space agencies is essential for effective satellite cybersecurity. International cooperation agreements and partnerships enable the sharing of best practices and coordinated responses to cyber incidents affecting satellite operations.

Legal and Regulatory Frameworks provide the foundation for satellite cybersecurity policies. Domestic legislation and international law establish standards, requirements, and enforcement mechanisms, ensuring compliance and fostering global cybersecurity collaboration. Strategic and Economic Competitiveness drive nations to adopt stringent cybersecurity measures to protect intellectual property, technological advancements, and market interests in the global satellite industry. Comprehensive policies safeguard national competitive edges and ensure the reliability of satellite services.

By understanding these interconnected geopolitical factors, nations can develop holistic and effective satellite cybersecurity policies that protect national interests, promote global stability, and ensure the security and resilience of satellite operations in our interconnected and technologically advanced world.

International Cooperation and Legal Agreements

International cooperation and legal agreements play crucial roles in enhancing the resilience of satellite systems against cyber threats by fostering collaboration, establishing norms, and facilitating coordinated responses.

Firstly, international cooperation allows countries to share information and best practices regarding cybersecurity threats and vulnerabilities affecting satellite systems. Collaborative efforts enable the pooling of expertise and resources, which is essential for identifying emerging threats early and developing effective mitigation strategies. Through platforms like international conferences, workshops, and information-sharing mechanisms, countries can enhance their collective understanding of cybersecurity challenges specific to satellites.

Secondly, legal agreements provide a framework for establishing common standards and guidelines for satellite cybersecurity. International treaties and conventions, such as those under the auspices of the United Nations or regional organizations, can set forth principles for responsible state behavior in cyberspace. These agreements may include provisions for cooperation on incident response, sharing of threat intelligence, and mutual assistance in cybersecurity emergencies. By adhering to agreed-upon norms and regulations, countries contribute to a more predictable and stable cybersecurity environment for satellite operations.

Moreover, international legal frameworks contribute to the establishment of accountability and enforcement mechanisms in case of cyber incidents involving satellites. They provide a basis for resolving disputes and holding malicious actors accountable for their actions. This deterrent effect can help mitigate the risk of cyber attacks on satellite systems by creating consequences for unauthorized access, data breaches, or sabotage attempts.

Furthermore, international cooperation promotes the development of capacity-building initiatives aimed at enhancing cybersecurity capabilities among nations. Capacity-building programs provide technical assistance, training, and resources to less developed countries, helping them strengthen their defenses against cyber threats targeting satellite infrastructure. By narrowing the technological and operational gaps, these initiatives contribute to a more robust global cybersecurity posture.

Lastly, international cooperation and legal agreements foster trust and confidence among stakeholders in the satellite industry, including governments, private sector entities, and international organizations. Trust is crucial for effective collaboration and information sharing, which are essential components of proactive cybersecurity measures. By building a cooperative network of stakeholders committed to safeguarding satellite systems, international cooperation enhances resilience against cyber threats and promotes the sustainable use of outer space for peaceful purposes.

In conclusion, international cooperation and legal agreements are essential pillars in strengthening the resilience of satellite systems against cyber threats. They facilitate collaboration, establish norms, provide accountability, promote capacity-building, and build trust among stakeholders. By leveraging these mechanisms, countries can collectively enhance the security and reliability of satellite operations in an increasingly complex and interconnected global environment.

CONCLUSION

In conclusion, the intersection of international law and geopolitical strategy is pivotal in addressing the multifaceted challenges of satellite cybersecurity. Satellites, as critical components of global infrastructure, are increasingly vulnerable to sophisticated cyber threats that can disrupt essential services and compromise national security. The integration of international legal frameworks provides a foundation for establishing norms, standards, and cooperative mechanisms essential for mitigating these risks.

International law, anchored by treaties such as the Outer Space Treaty and regulations from bodies like the International Telecommunication Union (ITU), lays the groundwork for responsible behavior in space and cyberspace. However, adapting these frameworks to include specific provisions for satellite cybersecurity remains a pressing need. The development of new treaties or protocols that address the technical and operational aspects of cybersecurity, alongside robust enforcement mechanisms, is essential to enhancing the protection of satellite systems.

Geopolitical factors heavily influence national policies on satellite cybersecurity, driven by concerns over national security, economic interests, and strategic rivalries. Nations prioritize securing military satellites, protecting commercial interests, and aligning policies within regional alliances to bolster collective defenses. Technological advancements and cyber capabilities further shape these policies, emphasizing the importance of fostering innovation and collaboration to stay ahead of evolving threats.

Effective international cooperation is crucial for building resilience against cyber threats to satellite systems. Collaborative efforts facilitate the sharing of threat intelligence, best practices, and capacity-building initiatives among nations. Legal agreements and frameworks provide a structured approach to defining responsibilities, coordinating responses to cyber incidents, and establishing accountability in case of breaches. By fostering trust and collaboration among stakeholders, international cooperation enhances the overall security and stability of satellite operations.

Looking forward, enhancing satellite cybersecurity requires a continued commitment to strengthening international partnerships, adapting legal frameworks to technological advancements, and promoting responsible state behavior in cyberspace. Addressing gaps in current regulations, improving information sharing mechanisms, and investing in cybersecurity education and research are vital steps toward ensuring the resilience and sustainability of satellite systems amidst evolving cyber threats. Ultimately, the integration of international law and geopolitical strategy offers a pathway to a secure and interconnected future in space, safeguarding the benefits of satellite technology for humanity.

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INTERNATIONAL LAW STUDENT ASSOCIATION
CHAPTER HASANUDDIN UNIVERSITY

The Hidden Genocide in East Timor: An International Law Perspective

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ABSTRACT

From 1975 to 1998, East Timor was part of Indonesia known as Timor Timur Province. While most Indonesians believed that East Timorese wanted to be integrated into Indonesia at that time. But, this region experienced significant violence during this period. The violence was perpetrated primarily by the Indonesian military, targeting individuals suspected of being ‘terrorists' even though the attack was without sufficient evidence. The reason was mainly because they didn’t want to be integrated with Indonesia. These Violence remains unresolved to this day. This study examines whether the violence in East Timor meets the criteria for genocide and explores the implications of both international and Indonesian national law in addressing these crimes. Additionally, the article compares the situation in East Timor to the Macias case in Equatorial Guinea, highlighting the prosecution of genocide in the absence of specific domestic laws.

INTRODUCTION

East Timor has been under the colonization of Portugal for over 250 years. In 1975, Portugal withdrew from its colonies due to decolonization called The Carnation Revolution. This resulted in a power vacuum in East Timor. The conditions during this period are unstable between three different political ideologies that exist in East Timor. The first one, led by the Timorese Democratic Union (UDT), União Democrática Timorense – Timorese Democratic Union), advocated to maintain East Timor under Portuguese territory. Second, represented by the Apodeti Party (Associação Popular Democrática Timorense – Timorese Popular Democratic Association), advocated for integration with Indonesia. The last one, ASDT (Associação Social Democrática Timor), later renamed Fretilin (Revolutionary Front for an Independent East Timor), aspired for full independence for East Timor.

This vacuum of power did not last longer in December 1975, under the pretext of Operasi Seroja. The Indonesian military arrived in East Timor by landing on the north coast of Dili. This was the largest military operation that Indonesia has ever done, involving all the military branches. From 1975 to 1999, East Timor was incorporated into Indonesia as the 27th province, known as Timor Timur Province. However, Indonesia's actions are not recognized by a majority vote at the United Nations [hereinafter "UN"]. This resulted with the UN never admitting Timor Timur as part of Indonesia.

Operasi Seroja that the Indonesians did was implemented without diplomatic measures and instead relied on military force. In this particular case, Indonesian military forces labeled the members of the opposing ideology as "security disruptors" or "terrorists," leading to a systematic campaign of violence aimed at suppressing these groups.

This violence extended to the civilian population, with those suspected as supporters of independence subjected to village destruction, crops, and livestock, as well as torture, rape, arbitrary imprisonment, and summary execution. For the next 24 years, the political status of East Timor remained in dispute, both internationally and within East Timor. Inside East Timor, with continuous armed and peaceful war. However, human rights violations in this particular case came from the Indonesian military itself and also from pro-Indonesian militia and paramilitary groups serving as their proxies. During this period, approximately one-fifth of the East Timor population, or around 100.000 to 200.000 were killed as a result of the Indonesian occupation and invasion. The majority of deaths resulted from hunger, disease, and systematic violence perpetrated by the Indonesian military. While most of the jurists have classified these events as genocide. However , the UN report and Indonesia Ad-Hoc Tribunal had classified them as gross human right violations.

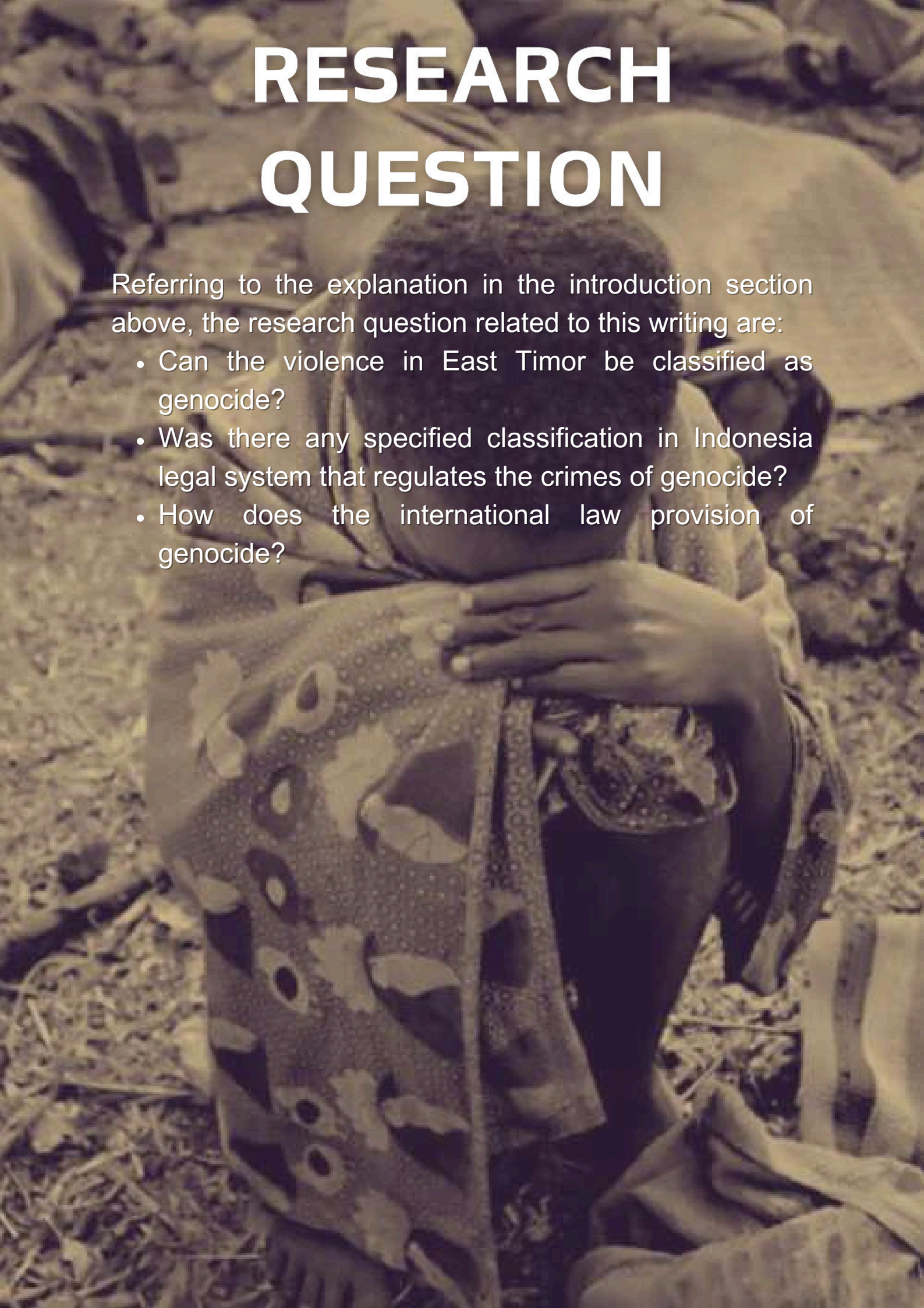
The situation changed following the change of Indonesia political condition, with the resignation of Indonesia's longest President, General Suharto, in May 1998. East Timor ultimately achieved their independence from Indonesia on 30 August 1999 through a UN- Sponsored referendum. In this referendum, eighty-percent of the population voted for independence. The referendum was not proceeding smoothly. Before the referendum was held, Special Forces Command (Kopassus) army unit terrorized the civilians into voting to stay in Indonesia. They are specifically targeting youth activists.

Hence, this introduction wanted to settle the same knowledge for readers about East Timor itself. Since the writers admit there is a lack of acknowledgement about what is going on in East Timor.

RESEARCH QUESTION

Referring to the explanation in the introduction section above, the research question related to this writing are:

- Can the violence in East Timor be classified as genocide?
- Was there any specified classification in Indonesia legal system that regulates the crimes of genocide?
- How does the international law provision of genocide?



RESULTS & DISCUSSION

The Classification of The Violence

The term genocide was used in the early 1940s by a Polish American jurist called Raphael Lemkin. Genocide consists of the Greek word genes meaning race, nation, or tribe; and the Latin word cide which means killing. This term is used to describe the act of destroying certain groups intentionally. This work of Lemkin then became the source of the international legal framework for genocide. According to article II of the Genocide Convention, genocide means any acts with the intention to destroy, in a whole or in part, a national, ethnical, racial or religious group, as such: 'Killing members of the group'; 'Causing serious bodily or mental harm to members of the group'; 'Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part'; 'Imposing measures intended to prevent births within the group'; 'Forcibly transferring children of the group to another group'.

In 1999, the UN High Commissioner for Human Rights reported that they had found 'overwhelming evidence of gross, systematic human rights violation.' These evidences include: 'Wanton killings; 'Deliberate and long-planned forcible expulsions of between 120.000 and 200.000 people; 'Violence and torture of students, intellectuals, and activists'; 'Rape of and sexual violence against women'; 'Forced disappearances, and separation of family members; 'Forced recruitment of young East Timorese men into the militias'; and 'Destruction and looting of property'.

Although these acts were classified as gross violations we could not precisely conclude that it was an act of genocide. To classify a violation as genocide, it must fulfill several elements from the Finalized Draft Text of the Elements of Crime formed by the Preparatory Commission for the International Criminal Court. According to the Finalized Draft Text of the Elements of Crime, the following elements are: 'Specified conduct committed against one or more persons'; 'Such person or persons belonged to a particular national, ethnical, racial or religious group'; 'An intention to destroy such a group in whole or in part'; and 'The conduct was part of a pattern of similar conduct directed against that group.' The critical question is whether the violence committed by Indonesia, its army, militias, or individual members of these organizations fulfill the second and third elements.

Article II of the Genocide Convention expressed that the acts committed were intentionally to destroy a group whether it is a national, ethnical, racial, or religious group. On the other hand, determining the targeted group in East Timor is more challenging than it might appear. Firstly, concerning the religious group, there were no religious groups that were targeted, and even Catholic priests and nuns were not targeted regarding this incident. The targets were all political opponents regardless of whether they were Catholic, Muslim, or Animist. The East Timorese resistance leader, Jose Ramos-Horta, expressed that the violence in East Timor was irrelevant to religious distinctions. Secondly, relating to East Timor as a national group. It is relatively difficult to define since East Timorese independence was uncertain. The drafters of the Geneva Convention outlined that groups based on political affiliation from protection were excluded.

The independence of East Timorese has brought several questions such as whether East Timorese is a sovereign state; whether East Timorese is a continuing territory from Portugal as the Colony; or whether East Timorese is an annexed Province of Indonesia. However, at that time the UN recognized Portugal as the administering Power of East Timor. Regarding Indonesia's annexation, the UN never deliberately recognized Indonesia's annexation over East Timor; both the General Assembly and Security Council condemned the invasion as illegal use of force and that it violates the human rights of East Timorese. Yet, the General Assembly declared that East Timor is a non-self-governing territory under Chapter XI of the UN Charter with a recognition of self-governing determination. In September 1999, East Timor conducted an independence ballot with seventy-eight point five percent of the people who agreed that East Timor should be an independent state; However, the official independence of East Timorese will not be declared until the executive authority of the UN Transitional Administrator expires several acts relating to the independence of East Timor. In 1999, East Timor proclaimed their self determination to become a national group and gained recognition from the international community. Therefore, East Timor fulfills the element as a national group and the violence regarding the post ballot in East Timor could be classified as genocide.

Lastly, the classification of East Timor as a racial or ethnic group regarding to the genocide. Even though the post-ballot violence was primarily Indonesia's responsibility however, the militia members who were mostly East Timorese carried out the violence against pro-independence. This has become an issue, whether these acts towards their own race can still be constitute as genocide or not.

However, there was a violence occurred in Cambodia and it nearly killed two million people. This violence was carried out by a radical group which is the Cambodian itself, this violence is called Khmer Rouge. According to the commentator of the Khmer Rouge case, the violence in Cambodia was classified as 'auto-genocide' which means intention to destroy their own group. Yet, this holds no status in the international community.Many militias were willing to support Indonesia's policy and execute violence against their own race. Therefore, the violence that was carried out was not intended to destroy particular ethnic or race however it is due to different political views.

Proceeding to the next element, whether it fulfills the intention to destroy such a group in whole or in part. Assuming that East Timorese is included into the group classification expressed in Article II of the Genocide Convention, it means that the violence must also fulfill the third element. In accordance to the Rutaganda decisions, it is stated that genocide is distinguished from other crimes because it requires a special intent, or *dolus specialis*. The International Criminal Tribunal for Rwanda [hereinafter "**ICTR**"] noted that *dolus specialis* a primer element of an intentional offense which has connection between psychological, physical result, and the mental state of the offender. However, ICTR has adopted a more flexible approach, as stated in the Akayesu's case. Due to the difficulty and impossibility in determining a special intent, the intention could be seen from a certain number of presumptions of fact such as a particular act done by the perpetrator or other systematic act directed against the same group. It can also be seen from the scale of atrocities committed. Relating to the scale of the violence committed, according to Amnesty International there were many hundreds killed although it did not have an exact number.

The United States State Department estimated that there were at least 250 people were killed, the UN High Commissioner for Human rights reported that there were ‘many’ killed, the International Commission of Inquiry reported there was ‘a large number of death’, lastly Human Rights Watch reported that ‘best estimates’ were that over one thousand civilians were killed. Concerning the intention of Indonesia and its army, Indonesia started to invade in early December 1976 and it is reported that as many 60.000 East Timorese were dead. In July 1976 President Soeharto declared the integration of East Timor into the Republic of Indonesia as the twenty-seventh Province. However, East Timorese continued to resist Indonesia's occupation. Then Indonesia continued to occupy and launched several oppressive strategies towards East Timorese. According to John Pilger in his book Distant Voices, the act of Indonesia could be classified as genocide because it is intended to reduce indigenous population. The act which proves the intention is forcible birth control, including family planning and forced sterilization of women. There was also economic control of former Portuguese colonies, the system of land ownership, and former ethnic Chinese businesses. Control of the education system that included Indonesia’s Ideology which is Pancasila, included Pramuka participation, the scout movement from Indonesia, and included Indonesian arts, language and music. On the other hand, Ben Kiernan an Australian historian stated that Indonesia’s motive was to conquer East Timor by repressing its people and destroying its political independence movement. Until this day, UN never confirms that the violence happened in East Timor as genocide however it is determine as a gross violation of human rights and breaches of humanitarian law.

Provisions for the Crime of Genocide in Domestic Laws

The provision has never been easy. Assuming the classification of genocide is satisfied under the East Timor Case. The application the term of genocide still facing complex legal challenge for several reason. During the period the acts were committed in 1975 until 1998 and at the time of the referendum in 1999, Indonesia has neither ratified the Geneva Convention nor criminalised genocide domestically. This can be seen by the mass killings that occurred in Indonesia from 1965 until 1966, where the government targeted alleged communists. These circumstances clearly indicate that Indonesia's domestic laws lack practical consequences for prosecuting genocide. Hence, it can be fall under the principle of *Ratione Temporis.*

Even if, there is no recognition of genocide under the Indonesia domestic law, it is unjust not to punish the perpetrator of genocide even if there is a lack of practical assistance. Particularly, when the victims in this case East Timor civilians have endured significant trauma due the violence for years, especially when the offenders were aware or can be imputed to have been aware that their actions are criminal they must be held accountable. However, after the international pressure and the needs to address the widespread violence that occurred during 1999 the East Timor independence referendum. Indonesia Held KPP HAM Timor-Timur (The East Timor Human Rights Commision) to investigate gross human right violations. The National Commission on Human Rights (Komnas HAM) submitted the investigation to Attorney's General Office. The Government finally made Law No. 26 of 2000 on Human Rights Courts on Human Right Courts, this continued with an Ad Hoc Human Rights court that was established based onPresidential Decree No. 96 of 2001.

The court conducted trials for eighteen individuals, resulting in an individual conviction and imprisonment, while sixteen were acquitted and one person acquitted in the High Court. Therefore, Indonesia's actions demonstrate an lack awareness of the genocide committed 24 years prior, yet the outcomes raise questions about the effectiveness and justice of the measures taken.

Furthermore, Genocide has been universally recognized as a crime under international law, particularly since the World War II and generally requires punishment. In addition, The principle of *nullum crimen sine lege* which means that there can be no punishment of crime without a pre-existing law. This principle has not been invoked in practice since the adoption of Genocide Convention. Consequently, despite the absence of domestic laws that recognized genocide and even if State has not ratified the Genocide Convention. State can still be prosecuted under the crime of genocide based on this principle.

In comparison, Indonesia has already ratified the Geneva convention since 1950. However, the existence of Undang Undang Nomor 26 Tahun 2000, emphasizes Indonesia’s recognition of Gross Human Right Violations. This can be recognized that Indonesia is already aware about how the gross human right violation should be prosecuted. It is with regret that, how the court adjudicated it does not seem that Indonesia has that strong value toward the application of gross human right violations. It can be assumed that this case is not done yet.

To address this, one potential step is to revisit the prosecution of these crimes within Indonesia’s own legal system. Indonesia’s Law No. 26/2000 provides the basis for prosecuting gross human rights violations, and there could be a chance to push for renewed investigations or retrials to address the shortcomings of earlier prosecutions.

Ensuring that these trials now are conducted transparently and impartially could strengthen the legal process and restore confidence in Indonesia's commitment to human rights. Especially, to the commitment for the ratification of Genocide Convention.

International Law Provisions on Genocide

Based on Article II of the Genocide Convention stated that "....shall be punished as provided in subsection (b)which provides punishments of death, life imprisonment, and a fine up to $1,000,000 ". This is the ideal manner in which genocide should be punished. However, International Court Of Justice (ICJ) has limited capacity to halt a state that suspected committing genocide or to deter future genocide. This limitation was supported by several delegates' opinions in the United Nations General Assembly Sixth Committee. Even if court orders a state to cease genocide, there is no assurance from the state will be comply the order. Especially, when a state's vital interests are at stake. In such cases, the order would have little impact. This applies in the East Timor case since Indonesia's vital interest to occupy East Timor was addressing integration was deemed vital.

In a matter of suggestion, the International Commission of Inquiry on East Timor recommended the UN Security Council to establish an international criminal tribunal as it did in response for Rwanda and Yugoslavia genocide cases. This recommendation refers to the cases that happened in 1999. However, this sort of thing should also be made and applied to the violence that occurred 24 years prior, as it's unjust to not prosecute the other perpetrators. Indonesia cannot be argue under the principle of Ratione Temporis since they has been ratified Genocide Convention during those period and Genocide Convention considered as customary international law

Furthermore, his complex legal scenario is not unprecedented. In September 1979, Fransisco Macias Nguema, in his capacity as president, was reputed to have been responsible for killing thousands of citizens of Equatorial Guinea, particularly the intellectuals. Macias was sentenced to death and executed by a military tribunal in Equatorial Guinea. Equatorial Guinea had no codes of law at the time, and in particular no penal code or provision on genocide. The court did not specify whether the applicability of the Genocide Convention was based on Spain's ratification or its status as customary international law. Nonetheless, the court appeared to apply the Genocide Convention as the governing law. This case demonstrates that the crime of genocide still can be prosecuted even without ratification of the Genocide Convention.

While, that can be denied there is ambiguity in the application Genocide Convention regarding the proper interpretation of its text. However, this ambiguity cannot justify not prosecuting acts of genocide. Any ambiguity that can be solved by the definition shall be interpreted in favor of the person being investigated, prosecuted or convicted.

CONCLUSION

Until this day, there has been no justice given to East Timor. There are several reasons behind that, which are the classification of the membership group targeted written in Geneva Convention has not yet covered East Timor and there have been pros and cons about the classification of genocide that has happened in East Timor. There are several literatures that confirmed that genocide has constituted in East Timor however, UN never explicitly confirmed that the violence was because of genocidal intent. It is only classified as a gross violation of human rights and breaches of humanitarian law. Assuming that genocide really occurred, at that time Indonesia practice does not look like they criminalised genocide domestically. However measures have been taken by the Indonesia government, according to Presidential Decree No. 96 of 2001 there was an Ad Hoc Human Rights court that was established but only one person was imprisoned. Yet, this is still inequitable considering the damage that has been done towards the East Timorese.

In other scenario, if at that time Indonesia did not ratify Geneva Convention, Indonesia can still be prosecuted because since World War II, the crime genocide requires the perpetrators to be punished. In the case of the Trial of Macias, the President who killed thousands of citizens of Equatorial Guinea, particularly intellectuals were sentenced to death even though Equatorial Guinea had no codes of law at the time, or even ratify Genocide Convention. The ideal penalty for the violence based on Article II of the Genocide Convention is that the country shall be punished as such as punishments of death, life imprisonment, and a fine up to $1,000,000.

This can be prove that the prohibition of genocide has long been recognized as a fundamental principle of international law, even in the absence of ratification of the Genocide Convention. Hence, justice must be ensured for the crimes committed in East Timor.

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INTERNATIONAL LAW STUDENT ASSOCIATION
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International Investment Law Analysis of the Illegal Freezing Iranian's Assets by the United States: Reviewing from Treaty of Amity Economic Relations

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The Future of International Law!

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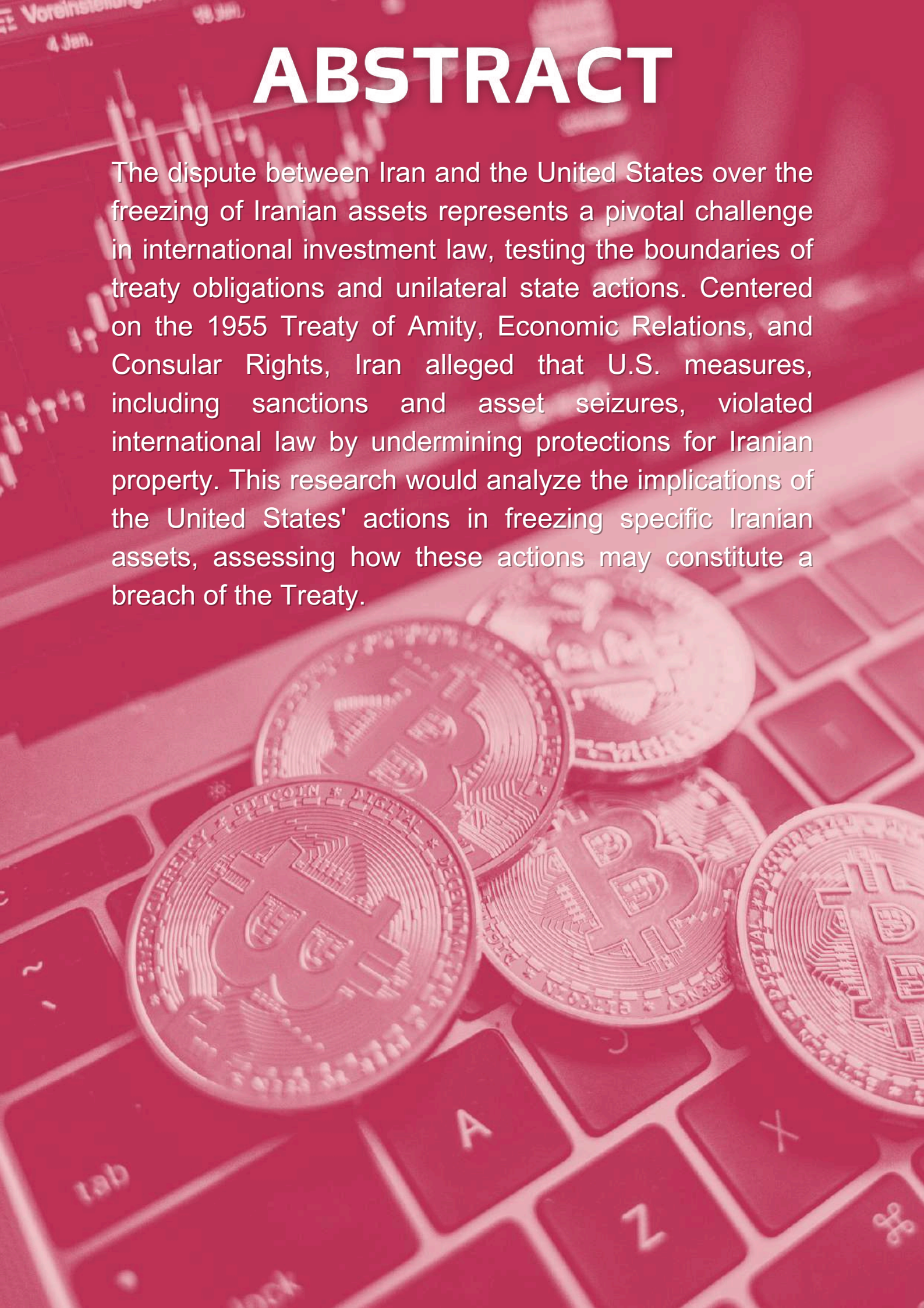
ABSTRACT

The dispute between Iran and the United States over the freezing of Iranian assets represents a pivotal challenge in international investment law, testing the boundaries of treaty obligations and unilateral state actions. Centered on the 1955 Treaty of Amity, Economic Relations, and Consular Rights, Iran alleged that U.S. measures, including sanctions and asset seizures, violated international law by undermining protections for Iranian property. This research would analyze the implications of the United States' actions in freezing specific Iranian assets, assessing how these actions may constitute a breach of the Treaty.



INTRODUCTION

The legal dispute between the Islamic Republic of Iran and the United States regarding the freezing of Iranian assets represent a pivotal moment in the relationship between international law, particulary in the interpretation of treaty obligations and the limits of unilateral state actions. On 14 June 2016, Iran filed a case before the International Court of Justice (hereafter referred to as the ICJ), alleging that the United States had violated its obligations under the Treaty of Amity, Economic Relations and Consular Rights (hereinafter referred to as the Treaty of Amity). This treaty, signed on 15 August 1955 and effective from 16 June 1957, was established to foster economic cooperation and ensure mutual protection of the property and rights of nationals and companies of both states. Iran claimed that a series of measures implemented by the United States had breached these commitments and inflicted significant harm on Iranian entities, including government institutions and state-owned companies.

The origins of the dispute can be traced back to 1984, when the United States designated Iran as a "State sponsor of terrorism," a label that has remained in effect to date. This designation served as the legal basis for a range of legislative, executive, and judicial measures targeting Iran. Key among these was the 1996 amendment to the Foreign Sovereign Immunities Act (FSIA), which removed immunity for states accused of sponsoring terrorism in U.S. courts. Subsequently, the enactment of the Terrorism Risk Insurance Act (TRIA) in 2002 allowed for the enforcement of judgments against the assets of such states. These measures culminated in Executive Order 13599, issued in 2012, which froze all Iranian government assets within U.S. jurisdiction, including those of Bank Markazi (the Central Bank of Iran), as part of a broader sanctions regime.

These actions resulted in numerous lawsuits being filed against Iran in U.S. courts, often leading to default judgments and substantial damage awards for plaintiffs who accused Iran of supporting acts of terrorism. The frozen assets of Iranian entities were subsequently subjected to enforcement proceedings, with some being distributed to judgment creditors. Iran contended that these actions not only undermined its sovereign rights but also contravened Article IV(2) of the Treaty of Amity, which guarantees “the most constant protection and security” for the property of nationals and companies of both parties and prohibits the expropriation of such property without due process and prompt compensation.

In its legal challenge, Iran further argued that the measures were part of a broader policy of unilateral sanctions imposed by the United States, particularly after its withdrawal from the Joint Comprehensive Plan of Action (JCPOA) in 2018. These sanctions, Iran claimed, were contrary to the principles of international law, including the sovereign equality of states and the prohibition against the arbitrary seizure of assets. Iran characterized the U.S. actions as creating an "industry of litigation" aimed at unjustly targeting Iranian companies and financial institutions.

On 30 March 2023, the ICJ delivered its judgment, finding that the United States had indeed violated its obligations under the Treaty of Amity by freezing the assets of Iranian companies. The court ordered the United States to compensate Iran for the harm caused, although the exact amount remains to be determined. However, the ICJ declined jurisdiction over claims concerning the $1.7 billion in assets of Bank Markazi, citing insufficient legal grounds under the treaty.

This decision underscores the complexity of reconciling treaty obligations with domestic legislation and highlights the limitations of international adjudication in politically sensitive disputes.

RESEARCH QUESTION

- How can the United State's actions in freezing certain Iranian assets be considered a violation of the Treaty of Amity Economic Relation?
- How did the International Court of Justice rules, and what were the opinions of the International Court of Justice judges in deciding the case between Iran and United States?

RESULTS & DISCUSSION

The United States' controversial decision to freeze some Iranian assets was widely interpreted as a violation of the 1955 Treaty of Friendly Economic Relations. The treaty was intended to foster positive relations and economic collaboration between the two countries. However, Iran sued the US in 2016 at the International Court of Justice (ICJ), claiming that the US had violated the treaty because the asset freeze was imposed by a US court.

On March 30, 2023, the US move to freeze the assets of Iranian companies was declared unlawful by the International Court of Justice. Washington was ordered to compensate Iran after the court ruled that the United States had violated its obligations under the friendship treaty. However, the International Court of Justice also ruled that it had no jurisdiction over the frozen assets of Iran's central bank, which are part of a larger dispute.

Iran's main objection is that the asset freeze is an attempt to overthrow the Tehran government and cause economic instability in the country. Iran claims that this action violates the principles of international law that protect the rights of states to engage in non-discriminatory international trade. Because of its impact on the economy and the well-being of the Iranian people, the US action is also considered a violation of human rights.

Tensions between the two countries have escalated since the US withdrew from the nuclear deal in 2018. The asset freeze is just one of several sanctions the US has imposed on Iran in response to its nuclear program and support for organizations Washington considers terrorists.

Economic ties that were supposed to be upheld under the friendship agreement have also been affected by the sanctions, in addition to diplomatic ones.

The International Court of Justice (ICJ) ruling affirmed that while the United States has the authority to impose sanctions, such measures must comply with bilateral agreements and international law. The principles of non-discrimination and protection of foreign investment in the agreements were allegedly violated by the freezing of Iranian assets. Thus, the US action can be considered a serious violation of international law.

The ICJ ruling also shows that international law must be respected despite political tensions and conflicting interests between two countries. This is important to maintain confidence in the global legal system and promote diplomatic channels as an alternative to unilateral action to resolve disputes. It is hoped that this ruling will set a standard for future dispute resolution of a similar nature.

However, there are still problems in implementing the ICJ ruling. Iran and the United States have a history of ignoring international court rulings. While these rulings are legally binding, there is no effective system in place to ensure that a superpower like the United States complies with them. As a result, how the two countries react to this ruling will determine how US-Iran relations will develop in the future.

The United States violated the Treaty of Friendly Economic Relations by freezing some of Iran's assets. The ruling of the International Court of Justice provides hope for a peaceful resolution of this protracted conflict and emphasizes the importance of upholding international agreements. However, future diplomatic and economic relations between the two countries are uncertain due to the difficulties in complying with the court ruling.

In its ruling on Certain Iranian Assets, the ICJ came to the same findings. The United States objected to the case's admissibility twice and alleged three jurisdictional issues. Regarding jurisdiction, the United States contended that (1) the Treaty of Amity does not apply to U.S. actions under Executive Order 13599 because those actions were intended to counter Iran's nuclear proliferation activities under the treaty's national security exception; (2) the court lacks jurisdiction over all claims based on the international law of state immunity; and (3) the Iranian government and the Central Bank of Iran are not covered by key treaty provisions that Iran relies upon because the bank is a government instrumentality and those provisions refer to "nationals" or "companies" rather than government entities. Kenneth J. Vandevelde say that “the phrase ‘to think like a lawyer’ encapsulates a way to thinking that is characterized by both the goal pursued and the method use”.

Moreover, the ruling the Court focused more on the "nature" of Bank Markazi's operations than on its legal independence from the Iranian government. Iran argued that Bank Markazi qualified as a "company" under the Treaty because it invested in dematerialized bonds that were issued on the U.S. financial market and then managed the proceeds from those 22 securities. The ICJ was not persuaded and decided that the bank did not carry out enough commercially related activities to qualify as a "company" for the purposes of the Treaty. According to the Court, Bank Markazi's activities in the US are "inseparable from its sovereign function and part of the usual activity of a central bank."

The Court rejected the United States objection to admissibility based on Iran’s failure to exhaust local remedies.Under customary international law, a State that initiates an international claim on behalf of its nationals based on diplomatic protection must exhaust local remedies before the claim can be heard.

This requirement is also considered satisfied when there are no local remedies providing the injured persons with a reasonable opportunity to obtain redress. In this instance, the Court noted that because the federal law was passed after the Treaty of Amity, it was frequently applied by U.S. courts whenever an Iranian entity attempted to have federal statutory provisions declared unconstitutional by U.S. courts on the grounds that they conflicted with the rights granted by the Treaty. The Court rejected the United States' argument to inclusion on the grounds that local remedies had not been exhausted, concluding that the Iranian entities "had no reasonable possibility of successfully asserting their rights in United States court proceedings."

Furthermore,the United States raised three different defenses, which were denied by the ICJ. The United States raised three different defenses, all of which were denied by the ICJ. Initially, it dismissed the American argument that Iran had abused its rights by using the Treaty of Amity to implement policies it deemed to be unconnected to trade.The Court then rejected the United States' argument that Executive Order 13599, which barred the Iranian government and associated financial institutions' assets, violated two provisions of the Treaty: those governing the manufacture or trafficking of weapons and those required to protect a contracting party's fundamental security interests. Neither of these two exceptions applied to the Executive Order, according to the Court. It concluded that the Executive Order's actions only indirectly affected Iran's armaments manufacturing and trafficking. Furthermore, the Court determined that the Executive Order was not required to safeguard the fundamental security interests of the United States, pointing out that the Executive Order's arguments were mainly based on financial rather than security reasons.

Lastly, arguing that Iran had "unclean hands" when it came to the Court, the United States requested that the Court reject all of Iran's claims under the Treaty of Amity. The Court stated that it examines the notion cautiously and has never endorsed the idea that "clean hands" is a general standard of law or custom. Since "unclean hands" have "been invoked principally in the context of the admissibility of claims before international courts and tribunals, though rarely applied," the International Law Commission (ILC) declined to consider them as grounds for a preclusion of wrongfulness in its Responsibility of States for Internationally wrongful acts.

Despite its hesitancy to apply the doctrine, the Court stated that even if it were to apply “clean hands” to the case, a nexus between the wrongful conduct imputed to Iran and its claims under the Treaty of Amity would be needed. The Court determined this necessary nexus was missing and rejected the United States’ “unclean hands” defense. Having rejected these defenses, the Court then turned to the merits of Iran’s specific claims.

CONCLUSION

The International Court of Justice (ICJ) ruling on the dispute between Iran and the United States over the freezing of Iranian assets marked a major milestone in the enforcement of international law, finding that the United States had violated the 1955 Treaty of Amity, Economic Relations and Consular Rights. While the ICJ ordered compensation for the violation, the court also found it had no jurisdiction over certain assets of Iran's Central Bank, highlighting the complexities between the principle of state immunity and treaty obligations. The ruling affirms that unilateral actions, even those purportedly based on national security, must comply with the existing legal framework to uphold the integrity of international law. While providing legal clarity, the implementation of the ruling remains challenging, particularly given the strained diplomatic relations between the two countries and the broader geopolitical context. The case sets an important precedent for strengthening the principles of international law, emphasizing that even major powers are bound by treaty obligations, and demonstrating the need for constructive dialogue and respect for legal norms in resolving disputes.

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