

# FOUNDATIONAL DOCTRINES OF INTERNATIONAL LAW: BALANCING SOVEREIGNTY, JUSTICE, AND GLOBAL ORDER.



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## Abstract

*This paper explores twelve foundational doctrines of international law, each playing a crucial role in shaping the global legal order. These doctrines—including sovereignty, non-intervention, recognition, and universal jurisdiction—balance the principles of state autonomy with the need for international cooperation and justice. By examining landmark case laws, such as 'The Island of Palmas' and 'Nicaragua v. United States', the paper illustrates how these doctrines are applied in practice. This analysis provides insight into the complex interplay between national interests and global governance, highlighting the evolving nature of international law.*

**Keywords:** *International Law, Sovereignty, Non-Intervention, Recognition, Universal Jurisdiction, Diplomatic Immunity, Humanitarian Intervention.*

## Introduction:

"International law is not a set of rules or norms detached from the real world; it is the very fabric of global coexistence."— Boutros Boutros-Ghali, former UN Secretary-General.

International law, with its intricate web of doctrines, serves as the guiding framework for the conduct of states and international entities on the global stage. These doctrines, rooted in centuries of legal thought and practice, address the fundamental issues of sovereignty, justice, and the rights and responsibilities of states. They are not merely theoretical constructs but practical tools that mediate the often competing interests of national autonomy and global governance.

This paper delves into twelve of the most pivotal doctrines that have shaped international law, providing a lens through which to understand the delicate balance between respecting state sovereignty and upholding universal principles of justice and human rights. Through the analysis of landmark case laws, this exploration underscores the dynamic and evolving nature of international law as it seeks to address contemporary challenges in an increasingly interconnected world.

## **Most Popular Doctrines of International Law with Example Case Laws:**

### **1. Doctrine of Sovereignty:**

Sovereignty is a core principle in international law, asserting that each state has authority over its territory and domestic affairs without external interference. The Montevideo Convention (1933) defines a state's sovereignty as comprising a permanent population, defined territory, government, and the capacity to enter into relations with other states.

Example Case Law: The Island of Palmas Case (1928) is a landmark ruling where the Permanent Court of Arbitration upheld the principle of territorial sovereignty. The dispute between the United States and the Netherlands over the Palmas Island in the Pacific hinged on sovereignty. The Court ruled in favor of the Netherlands, asserting that sovereignty is determined by continuous and peaceful display of state authority over the territory.

### **2. Doctrine of Non-Intervention:**

This doctrine prohibits states from intervening in the internal or external affairs of another sovereign state. It is rooted in the respect for territorial sovereignty and political independence.

Example Case Law: Nicaragua v. United States (1986), where the International Court of Justice (ICJ) ruled that the U.S. violated international law by supporting the Contras in Nicaragua and mining Nicaraguan harbors. The Court emphasized that non-intervention is a cornerstone of international relations.

### **3. Doctrine of Recognition:**

The Doctrine of Recognition pertains to the acknowledgment by one state of the existence of another state or government, which in turn influences international relations and diplomatic dealings.

Example Case Law: Tinoco Arbitration (1923) involved the recognition of the Costa Rican government established by the Tinoco regime. The UK challenged Costa Rica's annulment of concessions granted by the Tinoco government. The arbitrator, former U.S. President William Taft, ruled that despite non-recognition by other states, the Tinoco government was de facto in power, thus its acts were valid.

### **4. Doctrine of Diplomatic Immunity:**

This doctrine protects diplomats from legal action in the host country to ensure peaceful international relations. It is codified in the Vienna Convention on Diplomatic Relations (1961).

Example Case Law: United States v. Iran (1980), commonly known as the Hostages Case, where the ICJ held that Iran violated diplomatic immunity by seizing the U.S. Embassy and holding American diplomats hostage. The Court underscored the importance of protecting diplomats even amidst conflict.

### ***5. Doctrine of State Responsibility:***

This doctrine holds that a state is responsible for its internationally wrongful acts and is liable to remedy the harm caused to other states or individuals.

Example Case Law: Trail Smelter Arbitration (1938-1941) between the United States and Canada. The case involved cross-border pollution from a Canadian smelter causing damage in the U.S. The tribunal held Canada responsible, establishing that states are liable for environmental harm caused to another state.

### ***6. Doctrine of Jus Cogens;***

Jus cogens are peremptory norms of international law that are binding on all states, such as the prohibition of genocide, slavery, and torture. These norms cannot be overridden by treaties or customary laws.

Example Case Law: Furundzija Case (1998), where the International Criminal Tribunal for the former Yugoslavia (ICTY) held that the prohibition of torture is a jus cogens norm. The Tribunal emphasized that no state may derogate from this obligation under any circumstances.

### ***7. Doctrine of State Immunity:***

Under this doctrine, a state cannot be sued in the courts of another state without its consent, protecting state sovereignty from foreign judicial interference. However, exceptions exist, such as in cases involving commercial activities.

Example Case Law: Pinochet Case (1999), where the House of Lords in the UK ruled that former Chilean dictator Augusto Pinochet did not enjoy immunity from prosecution for acts of torture committed during his regime. The case marked a significant development in limiting state immunity for international crimes.

### ***8. Doctrine of Universal Jurisdiction:***

Universal jurisdiction allows states to prosecute certain grave crimes, such as genocide, war crimes, and crimes against humanity, regardless of where they were committed or the nationality of the perpetrators or victims.

Example Case Law: Belgium v. Senegal (2012), where the ICJ ruled that Senegal must either prosecute or extradite former Chadian dictator Hissène Habré for alleged torture and crimes against humanity, affirming the principle of universal jurisdiction in international law.

**9. Doctrine of Self-Determination:**

This doctrine asserts the right of peoples to determine their political status and freely pursue their economic, social, and cultural development. It is enshrined in the UN Charter and various international human rights instruments.

Example Case Law: Western Sahara Advisory Opinion (1975) by the ICJ, where the Court affirmed the right to self-determination of the people of Western Sahara, rejecting Morocco's and Mauritania's territorial claims over the region.

**10. Doctrine of Pacta Sunt Servanda:**

This principle mandates that treaties and agreements are binding upon the parties and must be executed in good faith. It is a fundamental norm in treaty law.

Example Case Law: Gabčíkovo-Nagymaros Project (1997), where the ICJ held that Hungary and Slovakia were bound by their treaty obligations to complete a joint hydroelectric project, despite Hungary's subsequent refusal to continue. The Court emphasized that treaties must be honored unless legally terminated or suspended.

**11. Doctrine of Non-Refoulement:**

Non-refoulement prohibits states from returning asylum seekers or refugees to territories where they face threats of persecution or torture. This principle is enshrined in the 1951 Refugee Convention.

Example Case Law: Soering v. United Kingdom (1989), where the European Court of Human Rights ruled that the UK could not extradite a German national to the U.S. where he faced the death penalty, as it would violate the principle of non-refoulement by exposing him to inhuman or degrading treatment.

**12. Doctrine of Humanitarian Intervention:**

This doctrine allows for the use of force by states or international organizations to protect populations from mass atrocities, such as genocide or ethnic cleansing, when the host state is unwilling or unable to do so.

Example Case Law: Kosovo Intervention (1999), where NATO conducted military operations against the Federal Republic of Yugoslavia without UN Security Council authorization, to prevent ethnic cleansing in Kosovo. The intervention remains controversial but is often cited in discussions on the legitimacy of humanitarian intervention.

**Conclusion**

The doctrines of international law are foundational principles that govern the conduct of states and international organizations. These doctrines, supported by case

law, illustrate the complex interplay between legal norms and the practical realities of international relations. While some doctrines, such as sovereignty and non-intervention, emphasize the autonomy of states, others, like universal jurisdiction and humanitarian intervention, reflect the growing importance of global human rights and justice. Together, these doctrines shape the evolving landscape of international law, balancing state sovereignty with the need for global governance and accountability.

Passing Quote before Conclusion, "International law, at its core, is about finding a common ground among nations, where sovereignty meets shared responsibility and justice transcends borders."\* — Unknown.

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