

Synergy between the Law of Treaties and the Law of International Responsibility: So Far Apart but Still So Close

23 April 2021
Queen Mary University
London

The connection between the law of treaties and the law of international responsibility is a seemingly resolved question. Following the *Rainbow Warrior* award and the *Gabčíkovo-Nagymaros* judgment, it is now commonplace to think of the law of treaties and the law of international responsibility as being in a relationship of 'functional separation'. The law of treaties relates to so-called 'primary rules'; it serves to create obligations for States and establish their validity and scope. The law of international responsibility is a set of 'secondary rules', and it serves to determine when those primary rules, established by treaty, have been breached and what consequences follow. Their 'function' is different and, as such, they apply side-by-side.

But scratching beneath the surface, problems and uncertainties begin to emerge. Is the functional separation between the law of treaties and the law of responsibility airtight or is it porous, and does this matter? For instance, is the suspension of the performance of a treaty obligation by way of countermeasures in essence the same as the suspension of the treaty itself; can the formal distinction be maintained and, if so, to what end? Further, to what extent do treaties containing specific provisions on 'secondary rules' exclude the application the general rules of international responsibility? And what role does the law of responsibility have (if any) in respect of treaties which set up their own 'compliance mechanisms'? Or if a State enters into an international agreement with a non-State actor and either party breaches the agreement? Or if a State fails to comply with a treaty which is only being provisionally applied?

The Annual Spring Conference of the British Branch of the International Law Association, organised and hosted by Queen Mary University of London aims to address these and other relevant questions, with a view to achieving a better and deeper understanding of the relationship between these two fundamental areas of international law.

Programme

9:00-9:20 Welcome and Opening Remarks
Prof Penny Green, Dr Federica Paddeu, Prof Antonios Tzanakopoulos
and Prof Malgosia Fitzmaurice

9:20-10:00 Keynote Speaker
Dr Olufemi Elias

**10:00-11:15 Panel 1 - The interface between the law of treaties and the law of
State responsibility: Some persistent questions**

Moderator: Dr Matthieu Burnay (QMUL)

Suspension: Mr. Cameron Forsaith (Eversheds Sutherland)

Termination: Prof Christian Tams (Glasgow)

Countermeasures: Prof Serena Forlati (Ferrara)

11:15-11:45 Break

11:45-13:00 Panel 2 - *Leges speciales*? Treaty rules on international responsibility

Moderator: Dr Eva Nanopoulos (QMUL)

Attribution: Mr Graham Coop (Volterra Fietta)

Defences and treaty-based exceptions: Dr Martins Papanrinskis (UCL)

Remedies: Dr Geraldo Vidigal (Amsterdam)

13:00-14:00 Break

**14:00-15:15 Panel 3 - The relationship between compliance regimes and the
international of responsibility**

Moderator - Prof Neve Gordon (QMUL)

Environment: Prof Malgosia Fitzmaurice (QMUL)

Corruption: Dr Cecily Rose (Leiden)

Business and HR: Dr Ludovica Chiussi (Bologna)

15:15-15:45 Break

15:45-17:15 Panel 4 – Relevant issues to international responsibility

Moderator – Ms Jessica Gladstone (Clifford Chance)

Breach of provisionally applied treaties: what role for ARSIWA?: Dr Danai Azaria (UCL)

Breach of treaties with non-State actors: Dr Tatyana Eatwell (Doughty Street)

Treaties, succession and responsibility: Dr Daniel Costelloe (WilmerHale)

17:15-18:45 Round Table: Synergy between the Law of Treaties and the Law of International Responsibility: So Far Apart but Still So Close

Chair: Mr Jeremy Carver (President, ILA British Branch)

Prof Genevieve Bastid-Burdeau (Panthéon-Sorbonne)

Prof Pierre d'Argent (UCLouvain)

Prof Stefania Negri (Salerno)

Dr Joanna Gomula (Cambridge)

18:45-19:15 Conclusions

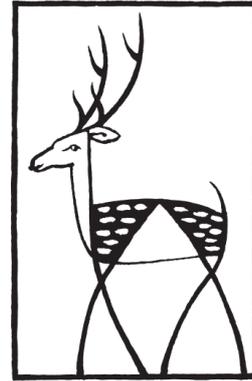
Prof Dai Tamada (Kobe University)

Ms Alison Macdonald QC (Essex Court)

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