

## STATE SUCCESSION -PART I

Kingdoms are clay : *W. Shakespeare, Antony and Cleopatra*, 1.i.12.

DEFINITION : State succession itself may be briefly defined as the replacement of one state by another in the responsibility for the international relations of territory.

State succession is essentially an umbrella term for a phenomenon occurring upon a *factual change in sovereign authority over a particular territory*. In many circumstances it is unclear as to which rights and duties will flow from one authority to the other and upon which precise basis.

Much will depend upon the circumstances of the particular case, for example

- whether what has occurred is a merger of two states to form a new state; the absorption of one state into another, continuing state;
- a cession of territory from one state to another; secession of part of a state to form a new state;
- the dissolution or dismemberment of a state to form two or more states, or the establishment of a new state as a result of decolonisation.

The relevant date of succession is the date at which the successor state replaces the predecessor state in the responsibility for the international relations of the territory to which the succession relates. Political entities are subject to change i.e., new states appear and old states disappear. Federations, mergers, dissolutions and secessions take place. **Since WWII over 100 new, independent countries cemented its presence. The issue of state succession is particularly complex.**

The Arbitration Commission established by the Conference on Yugoslavia, for instance, emphasised that 'there are few well-established principles of international law that apply to state succession. *Application of these principles is largely to be determined case by case, though the 1978 and 1983 Vienna Conventions do offer some guidance*', while the German Federal Supreme Court noted in the *Espionage Prosecution case* that 'the problem of state succession is one of the **most disputed areas** of international law'.

TWO TREATIES ON STATE SUCCESSION : The international aspects of succession are governed through the rules of customary international law. There are *two relevant Conventions*, the *Vienna Convention on Succession of States in Respect of Treaties, 1978*, which entered into force in 1996, and the *Vienna Convention on Succession of States in Respect of State Property, Archives and Debts, 1983*, which is not yet in force. However, many of the provisions contained in these Conventions reflect existing international law.

Decolonisation of all or part of an existing territorial unit, dismemberment of an existing state, secession, annexation and merger. In each of these cases a once-recognised entity disappears in whole or in part to be succeeded by some other authority, thus precipitating problems of transmission of rights and obligations.

ROLE OF INTERNATIONAL LAW : To provide a general framework to regulate these changes with the minimum of disruption and instability.

### ISSUES INVOLVED IN CHANGES IN POLITICAL SOVEREIGNTY OVER A PARTICULAR TERRITORIAL ENTITY :

1. How far the new state will be bound by - treaties, contracts, debts- entered by the previous sovereign state.
2. Inhabitants- nationality issue ?
3. What happens to Public property of the previous sovereign?
4. To what extent the new authority liable for the debts of the old?

Where a new entity emerges, one has to decide whether it is a totally separate creature from its predecessor, or whether it is a continuation of it in a slightly different form.

#### #1 – CONTINUITY PRINCIPLE BY INHERITANCE:

Origin: Roman law

**Concept: New state has to saddle the burden + benefits of its predecessor.**

Example: India is a continuation of British India whereas Pakistan is new state altogether.

1. Not accepted widely.
2. Cession/ secession of a territory will not affect existing state. Eg: Pakistan remains as a state even after independence of Bangladesh.

3. But when a state is dismembered so that all of its territory falls within the territory of two or more states, these rights and duties will be allocated as between the successor states. In deciding whether continuity or succession has occurred with regard to one of the parties to the process, one has to consider the classical criteria of the creation of statehood, together with assertions as to status made by the parties directly concerned and the attitudes adopted by third states and international organisations.
4. RELEVANCE OF THIS PRINCIPLE : You can easily continue membership in International organs of your predecessor. Eg: USSR dissolution; Russian federation took its membership.
5. IMPLICATION OF RESTORATION OF TERRITORY :
  1. Till 1940 - Baltic state was an independent state ;
  2. After 1940 it came under USSR control until 1990.
  3. In 1991, after dissolution of USSR , Baltic states declared independence.
  4. Question was : whether it will continue with Right and duties of USSR or can be restored with Rights & Duties of Baltic States on as on 1940 .
6. CASE OF DISSOLUTION OF YUGOSLAVIA: Two dismembered state maintained that it's a continuation of its predecessor but international community didn't accept it. Then it changed its position & requested UN for membership & be treated as a new member.

## #2 - Clean slate principle:

Origin: Positivism trends. It basically denied any transmission of rights, obligations and property interests between the predecessor and successor sovereigns, arose in the heyday of positivism in the nineteenth century. With the rise of the decolonisation process in the form of the 'clean slate' principle, under **which new states acquired sovereignty free from encumbrances created by the predecessor sovereign.**

**Concept: I am a new born child. I have my own style.**

"a new state is not bound to maintain in force, or become a party to, any treaty by reason only of the fact that at the date of the succession of states the treaty was in

force in respect of the territory to which the succession of states relates" Article 16 of the VCS 1978

## SUCCESSION TO TREATIES :

The importance of treaties within the international legal system is that it constitutes the means by which a **variety of legal obligations are imposed or rights** conferred upon states in a wide range of matters from the significant to the mundane. Treaties are founded upon the pre-existing and indispensable norm of *pacta sunt servanda* or the acceptance of treaty commitments as binding.

Treaties may fall within the following categories: **multilateral treaties**, including the specific category of treaties concerning international human rights; treaties concerned with territorial definition and regimes; **bilateral treaties**; and treaties that are treated as 'political' in the circumstances.

LAW : The rules concerning succession to treaties = customary international law + **Vienna Convention on Succession of States in Respect of Treaties, 1978**, which came into force in 1996 and which applies with regard to a succession taking place after that date.

1. ART.8 : Devolution agreements cannot affect third states.
2. ART.9 : Unilateral declarations, emphasises that such a declaration by the successor state alone cannot of itself affect the rights and obligations of the state and third states.

The consent of the other parties to the treaties in question or an agreement with the predecessor state with regard to bilateral issues is required.

## CATEGORIES OF TREATIES :

### 3 CATEGORIES:

1. TERRITORIAL : The first relates to territorially grounded treaties, under which rights or obligations are imposed directly upon **identifiable territorial units**. The prime example of these are agreements relating to territorial definition.

Waldock, in his first Report on Succession of States and Governments in Respect of Treaties in 1968, declared that 'The opinion of jurists + State practice in favour of the **continuance in force of boundaries established by treaty** appears to be such as to justify the conclusion that a general rule of international law exists to that effect', while Bedjaoui has noted that 'in principle the territory devolves upon the successor State on the basis of **the pre-existing boundaries**'.

WHY ? For the maintenance of international stability, this approach has been clearly supported by state practice

The Latin American concept of *uti possidetis juris*, whereby the administrative divisions of the former Spanish empire were to constitute the boundaries of the newly independent states in South America = was the first internationally accepted expression of this approach. It was echoed in US practice and African Unity in 1964, by which all member states pledged themselves to respect colonial borders. This was accepted by ICJ in *Burkina Faso/Mali* case. The International Court dealt with succession to boundary treaties generally in the *Libya/Chad* case, where it was declared that 'once agreed, the boundary stands, for any other approach would vitiate the fundamental principle of the stability of boundaries, the importance of which has been repeatedly emphasised by the Court'. It is particularly important to underline that the succession takes place, therefore, not as such to the boundary treaty but rather to the boundary as established by the treaty

This principle regarding the continuity of borders in the absence of consent to the contrary is reinforced by other principles of international law, such as the provision enshrined in article 62(2) of the Vienna Convention on the Law of Treaties, which stipulates that a fundamental change in circumstances may not be invoked as a ground for terminating or withdrawing **from a treaty that establishes a boundary**.

In addition, article 11 of the Vienna Convention on Succession to Treaties, although in terminology which is cautious and negative, specifies that

A succession of States does not as such affect:

- a boundary established by treaty; or
- obligations and rights established by a treaty and relating to the regime of a boundary.

The International Court declared that article 12 reflected a rule of customary law in addressing the issue of territorial regimes in the Gabč'ikovo–Nagymaros Project case and confirmed *that treaties concerning water rights or navigation on rivers constituted territorial treaties.*

2. POLITICAL TREATIES: Political or 'personal' treaties establish rights or obligations deemed to be particularly linked to the regime in power in the territory in question and to its political orientation.

Examples of such treaties would include *treaties of alliance or friendship or neutrality.*

EFFECT : Such treaties do not bind successor states for they are seen as exceptionally closely tied to the nature of the state which has ceased to exist.

3. SUCCESSION TO TREATIES GENERALLY :

Practice seems to suggest 'a tendency' or 'a general inclination' to succession to 'some categories of multilateral treaties' or to 'certain multilateral conventions'. However, this 'modern-classical' approach is difficult to sustain as a general rule of comprehensive applicability *One simply has to examine particular factual situations, take note of the claims made by the relevant states and mark the reactions of third states.*

In the case of bilateral treaties, , the importance of the individual contractual party is more evident, since only two states are involved and the treaty is thus more clearly reciprocal in nature. Accordingly, **the presumption is one of non-succession,** depending upon all the particular circumstances of the case. Practice with regard to the US, Panama, Belgium and Finland supports the 'clean slate' approach.

1. **Absorption and merger :**

ABSORPTION : Where one state is absorbed by another and no new state is created (such as the 1990 accession to the Federal Republic of Germany of the L'ander of the German Democratic Republic), the former becomes extinct whereas the latter simply continues albeit in an enlarged form.

EFFECT : The basic situation is that the treaties of the former, certainly in so far as they may be deemed 'political', die with the state concerned, although territorial treaties defining the boundaries of the entity absorbed will continue to define such boundaries. Other treaties are also likely to be regarded as at an end.

However, treaties of the *absorbing state continue and will extend to the territory of the extinguished state.*

MERGER : THE LAW : Vienna Convention on Succession to Treaties

ART.31(1) : Where two or more states unite and form one successor state, **treaties will continue in force.** UNLESS successor state and the other state party or states parties otherwise agree OR object and purpose of the treaty is incompatible.

ART.31(2) : Those treaties will be applied only the part of the territory of the successor state of in respect of which the treaty was in force at the date of the succession of states.

For example, in the cases of both the Egypt–Syria merger to form the United Arab Republic in 1958 and the union of Tanganyika and Zanzibar to form Tanzania in 1964, the continuation of treaties in the territories to which they had applied before the respective mergers was stipulated.

2. **Cession of territory from one state to another** : Article 15 of the Vienna Convention on Succession of States to Treaties, dealing with this '**moving-frontiers**' **rule** : When part of the territory of one state becomes part of the territory of another state, the general rule is that the treaties of the **former cease to apply to the territory while the treaties of the latter extend to the territory.** This is basically consistent with state practice.

EXAMPLE : US annexed Hawaii in 1898, its treaties were extended to the islands and Belgium was informed that US–Belgium commercial agreements were henceforth to be applied to Hawaii also.

EXCEPTION TO THE RULE : The application of the treaty to the territory would be incompatible with the object and purpose of the treaty or would radically change the condition for its operation.

### 3. Secession from an existing state to form a new state or states :

There can be separation or dismemberment of states.

- Break-up of a previously created entity into its previous constituent elements, as in the *1961 dissolution of the United Arab Republic into the pre-1958 states of Egypt and Syria*
- Complete fragmenting of a state such as the demise of Austria-Hungary in 1919.

CLEAN SLATE PRINCIPLE : When Belgium seceded from the Netherlands in 1830, it was deemed to start international life with 'a clean slate' and the same approach was adopted with regard to the secession of Cuba from Spain in 1898 and that of Panama from Colombia in 1903.

GENERAL RULE (ART.34+35) : Any treaty of predecessor state is applicable to successor state so formed + if the predecessor state is in existence, then existing treaties of predecessor states will remain in force after the succession in respect of the remaining territory.

1. Article 34 provides that 'any treaty in force at the date of the succession of states in respect of the entire territory of the predecessor state continues in force in respect of each successor state so formed'.
2. As far as the predecessor state is concerned in such a situation (assuming the predecessor state remains in existence), article 35 provides that existing treaties **remain in force** after the succession in respect of the remaining territory, unless the parties otherwise agree OR incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

ANALYSIS : Whether in view of the greatly increased network of multilateral treaties and the vastly enhanced interdependence of states founded and manifested upon such agreement, it is possible to say that the international community is moving towards a

position of a presumption of continuity, is in reality difficult to establish. Certainly the potentially disruptive effect of the creation of new states needs to be minimised, but it is far too early to be able to declare that **continuity or a presumption of continuity** is now the established norm.

#### 4. 'Newly independent states' :

The post-Second World War period saw the dismantling of the overseas European empires. The Vienna Convention on Succession to Treaties sought to establish a special category relating to decolonised territories. These were termed '**newly independent states**'.

Article 16 laid down the general rule that such states were not bound to maintain in force or to become a party to any treaty by reason only of the fact that the treaty had been in force regarding the territory in question at the date of succession. This approach was deemed to build upon the traditional '**clean slate**' principle. This was also consistent with the view taken by the UN Secretariat in 1947 when discussing Pakistan's position in relation to the organisation, where it was noted that 'the territory which breaks off, Pakistan, will be a new state; it will not have the treaty rights and obligations of the old state'.

**BILATERAL TREATIES** : Will depend on consent of the states concerned, and that the fundamental rule with regard to bilateral treaties was that their continuance in force after independence *was a matter for agreement, express or tacit, between the newly independent state and the other state party* which had contracted with the predecessor state.

**MULTILATERAL TREATIES**: Article 17 of the Vienna Convention provides that a 'newly independent state' may by a **notification of succession** establish its status as a party to a multilateral treaty which at the date of succession was in force in respect of the territory to which the succession relates.

Unless it appears from the treaty OR incompatible with the object and purpose of the treaty OR would radically change the conditions of its operation. In addition, where it appears from the nature of the treaty itself that the participation of any other state

would require the consent of all the parties, such consent must be forthcoming for the new state to participate. Other newly independent states adopted the practice of making unilateral declarations by which they made known their views as to treaty succession.

**5. Dissolution of states :** Where an existing state comes to an end as an international person and is replaced by two or more other states, it is accepted that political treaties will not continue but that territorially grounded treaties will continue to attach to the territories in question now subject to new sovereign arrangements.

**The situation with regard to other treaties is more uncertain.**

Article 34 of the Vienna Convention provides for treaties in force for all or part of the predecessor state to continue in force with regard to the specific territory unless the states concerned otherwise agree or it appears from the treaty or is otherwise established that the application of the treaty would be incompatible with the object and purpose of the treaty or would radically change the conditions of its operation.

The question of Yugoslavia was more complicated in that until 2000, the Federal Republic of Yugoslavia maintained that it was a continuation of the former Socialist Federal Republic of Yugoslavia, while the other former republics maintained that the former SFRY had come to an end to be replaced by a series of new states. The issue of article 34 and automatic succession arose in the Application of the Genocide Convention (*Bosnia and Herzegovina v. Yugoslavia*) case, where Bosnia argued that the rule applied with regard to the Genocide Convention and Yugoslavia denied this. The Court, however, did not make a determination on this point. The issue arose again in the *Gabčikovo–Nagymaros Project* case, where the parties argued as to whether the rule of automatic succession applied or not. The Court similarly declined to make a determination and focused instead on the significance of article 12.

6. International human rights treaties :

A territorial treaty binds successor states by virtue of attaching to the territory itself and establishing a particular regime that transcends the treaty. *Can it be maintained that international human rights treaties are analogous and thus 'attach' to the*

*inhabitants concerned within the territory of the predecessor state and thus continue to bind successor states?*

The very nature of international human rights treaties varies somewhat from that of traditional international agreements.

In the *Barcelona Traction case*, the Court differentiated between obligations of a state towards the inter-national community as a whole and those arising vis-a`-vis another state. The former are obligations that derive 'from the outlawing of aggression and of genocide, as also from the principles and rules concerning the basic rights of the human person, including protection from slavery and racial discrimination'. In view of the importance of such rights, **'all States can be held to have a legal interest in their protection; they are obligations erga omnes'**.

The issue of succession to the Genocide Convention in the Yugoslav situation was raised before the International Court specifically in the Preliminary Objections phase of the Application of *the Genocide Convention (Bosnia-Herzegovina v. Yugoslavia)* case. The Court held that it was unnecessary to determine this question in the circumstances since both Bosnia and Yugoslavia were clearly parties to the Convention by one means or another by the date of the filing of the Application

*Judge Weeramantry* in his Separate Opinion undertook a close analysis of the underlying principles and concluded by pointing to **'a principle of contemporary international law that there is automatic state succession to so vital a human rights convention as the Genocide Convention'**.

With regard to those human rights which are established as a matter of customary international law, the new state will be bound by these as such.

LAWXPERTSMV.

#REVISION NOTES

## STATE SUCCESSION

DEFINITION : State succession itself may be briefly defined as the replacement of one state by another in the responsibility for the international relations of territory.

State succession is essentially an umbrella term for a phenomenon occurring upon a *factual change in sovereign authority over a particular territory.*

Political entities are subject to change i.e., new states appear and old states disappear. Federations, mergers, dissolutions and secessions take place. Since WWII over 100 new, independent countries cemented its presence. The issue of state succession is particularly complex.

**TWO TREATIES ON STATE SUCCESSION :** The *Vienna Convention on Succession of States in Respect of Treaties, 1978*, which entered into force in 1996, and the *Vienna Convention on Succession of States in Respect of State Property, Archives and Debts, 1983*, which is not yet in force. However, many of the provisions contained in these Conventions reflect existing international law.

**ROLE OF INTERNATIONAL LAW :** To provide a general framework to regulate these changes with the minimum of disruption and instability.

### **ISSUES INVOLVED IN CHANGES IN POLITICAL SOVEREIGNTY OVER A PARTICULAR TERRITORIAL ENTITY :**

1. How far the new state will be bound by - treaties, contracts, debts- entered by the previous sovereign state.
2. Inhabitants- nationality issue ?
3. What happens to Public property of the previous sovereign?
4. To what extent the new authority liable for the debts of the old?

Where a new entity emerges, one has to decide whether it is a totally separate creature from its predecessor, or whether it is a continuation of it in a slightly different form.

#### **#1 – CONTINUITY PRINCIPLE BY INHERITANCE:**

Origin: Roman law

**Concept: New state has to saddle the burden + benefits of its predecessor.**

Example: India is a continuation of British India whereas Pakistan is new state altogether.

- Not accepted widely.
- Cession/ secession of a territory will not affect existing state. Eg: Pakistan remains as a state even after independence of Bangladesh.

6. But when a state is dismembered so that all of its territory falls within the territory of two or more states, these rights and duties will be allocated as between the successor states.

RELEVANCE OF THIS PRINCIPLE : You can easily continue membership in International organs of your predecessor. Eg: USSR dissolution; Russian federation took its membership.

IMPLICATION OF RESTORATION OF TERRITORY :

1. Till 1940 - Baltic state was an independent state ;
2. After 1940 it came under USSR control until 1990.
3. In 1991, after dissolution of USSR , Baltic states declared independence.
4. Question was : whether it will continue with Right and duties of USSR or can be restored with Rights & Duties of Baltic States on as on 1940 .

CASE OF DISSOLUTION OF YUGOSLAVIA: Two dismembered state maintained that it's a continuation of its predecessor but international community didn't accept it. Then it changed its position & requested UN for membership & be treated as a new member.

## #2 - Clean slate principle:

Origin: Positivism trends. It basically denied any transmission of rights, obligations and property interests between the predecessor and successor sovereigns, arose in the heyday of positivism in the nineteenth century. With the rise of the decolonisation process in the form of the 'clean slate' principle, under **which new states acquired sovereignty free from encumbrances created by the predecessor sovereign.**

**Concept: I am a new born child. I have my own style.** "a new state is not bound to maintain in force, or become a party to, any treaty by reason only of the fact that at the date of the succession of states the treaty was in force in respect of the territory to which the succession of states relates" Article 16 of the VCS 1978.

## SUCCESSION TO TREATIES :

The importance of treaties within the international legal system is that it constitutes the means by which a **variety of legal obligations are imposed or rights conferred**

upon states in a wide range of matters from the significant to the mundane. Treaties are founded upon the pre-existing and indispensable norm of *pacta sunt servanda* or the acceptance of treaty commitments as binding.

Treaties may fall within the following categories: **multilateral treaties**, including the specific category of treaties concerning international human rights; treaties concerned with territorial definition and regimes; **bilateral treaties**; and treaties that are treated as 'political' in the circumstances.

LAW : The rules concerning succession to treaties = customary international law + **Vienna Convention on Succession of States in Respect of Treaties**, 1978, which came into force in 1996 and which applies with regard to a succession taking place after that date.

1. ART.8 : Devolution agreements cannot affect third states.
2. ART.9 : Unilateral declarations, emphasises that such a declaration by the successor state alone cannot of itself affect the rights and obligations of the state and third states.

The consent of the other parties to the treaties in question or an agreement with the predecessor state with regard to bilateral issues is required.

CATEGORIES OF TREATIES : 3 CATEGORIES:

1. TERRITORIAL : The first relates to territorially grounded treaties, under which rights or obligations are imposed directly upon **identifiable territorial units**. The prime example of these are agreements relating to territorial definition. 'in principle the territory devolves upon the successor State on the basis of **the pre-existing boundaries**'.

WHY ? For the maintenance of international stability, this approach has been clearly supported by state practice

The Latin American concept of *uti possidetis juris*, whereby the administrative divisions of the former Spanish empire were to constitute the boundaries of the newly independent states in South America = was the first internationally accepted expression of this approach. It was echoed in US practice and African Unity in 1964, by which all

member states pledged themselves to respect colonial borders. This was accepted by ICJ in *Burkina Faso/Mali* case.

Article 62(2) of the Vienna Convention on the Law of Treaties, which stipulates that a fundamental change in circumstances may not be invoked as a ground for terminating or withdrawing **from a treaty that establishes a boundary**. In addition, article 11 of the Vienna Convention on Succession to Treaties, although in terminology which is cautious and negative, specifies that

A succession of States does not as such affect:

- a boundary established by treaty; or
- obligations and rights established by a treaty and relating to the regime of a boundary.

2. **POLITICAL TREATIES:** Political or 'personal' treaties establish rights or obligations deemed to be particularly linked to the regime in power in the territory in question and to its political orientation. Examples of such treaties would include *treaties of alliance or friendship or neutrality*. **EFFECT :** Such treaties do not bind successor states for they are seen as exceptionally closely tied to the nature of the state which has ceased to exist.

3. **SUCCESSION TO TREATIES GENERALLY :** *One simply has to examine particular factual situations, take note of the claims made by the relevant states and mark the reactions of third states.* In the case of bilateral treaties, **the presumption is one of non-succession**, depending upon all the particular circumstances of the case. Practice with regard to the US, Panama, Belgium and Finland supports the 'clean slate' approach.

#### 1. **Absorption and merger :**

**ABSORPTION :** Where one state is absorbed by another and no new state is created , the former becomes extinct whereas the latter simply continues albeit in an enlarged form.

**EFFECT :** 'political' treaties, die with the state concerned, although territorial treaties defining the boundaries of the entity absorbed will continue to define such boundaries.

MERGER : THE LAW : Vienna Convention on Succession to Treaties ART.31(1) : Where two or more states unite and form one successor state, **treaties will continue in force.** UNLESS successor state and the other state party or states parties otherwise agree OR object and purpose of the treaty is incompatible.

3. **Cession of territory from one state to another** : Article 15 ; '**moving-frontiers'** **rule** : When part of the territory of one state becomes part of the territory of another state, the general rule is that the treaties of the **former cease to apply to the territory while the treaties of the latter extend to the territory.** This is basically consistent with state practice. EXAMPLE : US annexed Hawaii in 1898, its treaties were extended to the islands.

4. **Secession from an existing state to form a new state or states** : There can be separation or dismemberment of states.
- Break-up of a previously created entity into its previous constituent elements, as in the *1961 dissolution of the United Arab Republic into the pre-1958 states of Egypt and Syria*
  - Complete fragmenting of a state such as the demise of Austria-Hungary in 1919.

GENERAL RULE (ART.34+35) : Any treaty of predecessor state is applicable to successor state so formed + if the predecessor state is in existence, then existing treaties of predecessor states will remain in force after the succession in respect of the remaining territory.

4. '**Newly independent states**' : '**clean slate**' principle applicable.

BILATERAL TREATIES : Will depend on consent of the states concerned, and that the fundamental rule with regard to bilateral treaties was that their continuance in force after independence *was a matter for agreement, express or tacit, between the newly independent state and the other state party* which had contracted with the predecessor state.

MULTILATERAL TREATIES: Article 17 of the Vienna Convention provides that a 'newly independent state' may by a **notification of succession** establish its status as a party to

a multilateral treaty which at the date of succession was in force in respect of the territory to which the succession relates.

**5. Dissolution of states :** Where an existing state comes to an end as an international person and is replaced by two or more other states, it is accepted that political treaties will not continue but that territorially grounded treaties will continue to attach to the territories in question now subject to new sovereign arrangements.

**The situation with regard to other treaties is more uncertain.**

6. International human rights treaties : The very nature of international human rights treaties varies somewhat from that of traditional international agreements. In the *Barcelona Traction case*, **'all States can be held to have a legal interest in their protection; they are obligations erga omnes'**.

*Application of the Genocide Convention (Bosnia-Herzegovina v. Yugoslavia) case :* Judge Weeramantry in his Separate Opinion undertook a close analysis of the underlying principles and concluded by pointing to **'a principle of contemporary international law that there is automatic state succession to so vital a human rights convention as the Genocide Convention'**.