SOVEREIGN IMMUNITY OF THE UNITED NATIONS: A CRITICAL ANALYSIS OF ITS STRATEGIC VALUE TO AMERICAN FOREIGN POLICY

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ABSTRACT

This paper explores the intricate relationship between United Nations sovereign immunity and United States foreign policy interests, arguing that the preservation of UN immunity serves as a crucial strategic asset for American diplomatic objectives. The research based on the case studies of several significant cases involving the Haiti cholera outbreak, Kosovo lead poisoning incident, and other peacekeeping missions demonstrates that UN immunity is often criticized as a hindrance to accountability; however, it paradoxically advances U.S. geopolitical interests by providing legal protection for U.S.-supported international interventions. This research delves into how this mechanism of immunity helps the United States pursue its foreign policy goals in UN frameworks without facing legal risks, especially where military interventions, economic sanctions, and peacekeeping operations are concerned. Using extensive analysis of jurisprudence, diplomatic history, and contemporary international relations, the paper concludes that UN sovereign immunity, controversial as it is, serves as a vital tool in the practice of diplomacy to advance American interests in global governance. This study adds to the richness of this ambiguous relationship between international organizational law and national strategic interests. It implies that the current immunity framework might well present a problem from an accountability perspective but is significant for U.S. foreign policy implementation.

I. Introduction

The founding of the United Nations in 1945 was the first significant step toward establishing world peace: the grand design for upholding international peace and engaging sovereign states interactively. For many years, the engagements of the United Nations were mostly of political concern, with its various organs functioning in a manner that highlighted governmental authority. Yet with the passing of days, the organisation has changed dramatically by expanding its roles to over 200 functions across over 50 separate treaties.[1] The early aspirations of the UN, worthy as they are, have been trumped by global interdependence as both reflective of possibilities for joint response, and exposing challenges of consensus in a world of divided interests. Attached aloft by scholars and practitioners alike in their investigations of this development is the question: can the UN negotiate the juxtaposition between its founding tenets and the competing realities of a complex international arena, or will it founder in the contradictions of its ascent?

The ongoing discourse about the significance of the 1946 United Nations Convention on Privileges and Immunities has created a serious rift in the world. One prefers to think of it as a body that protects the UN from legal tangles, making it a much-discussed issue. Both the Congress of the United States and the European parliament acknowledged the stark challenges considering the UN's claim to absolute immunity, which was dampened by their reluctance to address the genuine issues raised by its own labour force. This discussion implies that, by its own design, the United Nations has discretion in the grant of exclusive immunity concerning personal injuries and employment disputes connected to its peacekeeping and security duties. Such restricted immunity significantly strays away from the core principles the treaty presupposes and presents dire implications for international labour legislation. The consequences of this collective privilege concern are enormous; America, through its hold over the United Nations, unwittingly props an edifice of absolute immunity, describing it as a refuge from prosecution for all member states, that paradoxically stands to serve its own strategic interests more often. Thus, the interplay of legal and international obligations illuminates the formidable challenges in instilling accountability within multilateral entities.

[1] José E Alvarez, *'The Once and Future United Nations'* (2016) 2 Washington University Global Studies Law Review 5, 12.

II. The Concept of Sovereign Immunity

Sovereign immunity, a means of protection against lawsuits used most often by international organisations to shield their directives behind a statutory privilege, illustrates what is perhaps the most sophisticated evolution of traditional corporate law. The original proposition given life stated that legal entities that have a personality could only be regarded as such if there existed some form of relationship with other entities, meaning that the mere aggregation of individuals was out of the question. Today, it has configured itself to facilitate a smoother execution for institutions like the United Nations without having to spend manpower on defence and prosecution in courts. The immunity principle covers not only international organisations but also sovereign states, which contribute towards enforcing the immunity of whatever collective is concerned.[2] That is why the subsidiary organs of these organisations would also enjoy derived or secondary immunities depending, on the presence of some collection of pertinent conditions, specifically recognised in international law.[3] This corresponds to the doctrine of restrictive immunity, so called because the protections of the latter depend on certain conditions-a subsidiary's immunity can be claimed only to the extent the privileges of the parent organisation permit, and with respect to that which is related to the by-laws and mission of the parent organisation.[4] Therefore, to set up the immunity of sovereign states is to work out complex interdependencies within the plain ambit of law, and one that raises compelling questions as far as liability in the interdependent global order is concerned.

A. Origin and development

The doctrine of sovereign immunity stems from the English maxim "rex non potest peccare" ("the king can do no wrong"),[5] but has evolved significantly over time. When the United States inherited this concept from English common law, it initially provided absolute protection from lawsuits for both federal and state governments unless they consented to be sued. The 1812 U.S. Supreme Court case The Schooner Exchange v. M'Faddon[6] reinforced this principle

[2] Hazel Fox and Philippa Webb, The Law of State Immunity (3rd edn, OUP 2015) 15.
[3] August Reinisch, *International Organisations Before National Courts* (CUP 2000) 78.
[4] Eileen Denza, *Diplomatic Law: Commentary on the Vienna Convention on Diplomatic Relations* (4th edn, OUP 2016) 94.
[5] William Blackstone, *Commentaries on the Laws of England*, vol 1 (1st edn, Clarendon Press 1765) 238.
[6] *The Schooner Exchange v M'Faddon* 11 US (7 Cranch) 116 (1812).

internationally, establishing that nations possess absolute sovereignty and are therefore immune from foreign courts' jurisdiction.

However, subsequent legislative developments have refined and limited the scope of sovereign immunity to balance state sovereignty with legal accountability. The Federal Tort Claims Act of 1946[7] marked a crucial shift by allowing certain types of lawsuits against the federal government, particularly for tortious acts. This evolution continued with the Foreign Sovereign Immunities Act (FSIA) of 1976[8], which while maintaining the general principle of immunity for foreign governments in U.S. courts, created specific exceptions for commercial activities and other enumerated actions. These changes demonstrate how sovereign immunity has developed into a more nuanced doctrine that aims to protect state sovereignty while ensuring appropriate legal accountability.

In *Jam v. IFC* (2019),[9] a group of Indian farmers took the International Finance Corporation (IFC), a member of the World Bank Group, to court, alleging that a power plant project funded by the IFC in India caused serious environmental damage. They alleged that, due to the IFC's negligence, they themselves suffered substantial damage to the environment, which damaged their livelihood.[10] Boasting of its entitlement to absolute immunity, the IFC nonetheless contended that immunity was diametrically opposed to the principle that grants immunity to a foreign sovereign under the International Organisations Immunities Act of 1945.[11] This dramatic clash of local grievances with international legal protection illustrates the very tensions of development versus environmental governance and the problems that exist within the entire framework of global finance. In the eyes of the farmers, these reflect a greater fight against the consequences of globalization, raising myriad questions about accountability against transnational investment and their impacts against vulnerable communities.[12]

In a landmark decision, the Supreme Court asserted that these organisations would now be subject to the same principles of restrictive immunity that govern the immunity of foreign

[7] Federal Tort Claims Act 1946, 28 USC §§ 1346(b), 2671-2680.
[8] Foreign Sovereign Immunities Act 1976, 28 USC §§ 1330, 1332, 1391(f), 1441(d), 1602-1611.
[9] *Jam v International Finance Corporation* 586 US (2019).
[10] Daniel Bradlow, *'The World Bank, the IMF, and Human Rights'* (1996) 6 Transnational Law & Contemporary Problems 47, 68.
[11] International Organisations Immunities Act 1945, 22 USC § 288.
[12] Eisuke Suzuki, *'Responsibility of International Financial Institutions under International Law'* in Daniel D Bradlow and David B Hunter (eds), International Financial Institutions and International Law (Kluwer Law International 2010) 63.

countries under the Foreign Sovereign Immunities Act (FSIA).[13] This landmark ruling made even international organisations liable to be sued if conducting commercial activities that caused injuries, either within the United States or outside the U.S., on par with the treatment given to foreign sovereign nations. The implications of setting a judicial precedent for the UN would be that individuals affected by UN peacekeeping missions or environmental violations can now seek an avenue for redress in domestic courts.[14,15]

III. Arguments Against the United Nations' Sovereign Immunity

Within global governance, the dispute that primarily looks at questions around UN sovereign immunity is bent on the argument that the style of functioning diverges from the founding ideals as enshrined in the UN Charter. This critique even has a historical background in its origin suggesting that since the UN arose after World War II through what were then victorious states, the assignment for conferring was expected to be accomplished with sovereign immunity just for logistical purposes and to firmly eliminate Axis propaganda. But the existence of this mandate has also come to depend on the organisation acquiring full sovereign immunity to operate correctly.[16] Still, its pernicious effects have become more than evident by now. Thus, are critics claiming that the immunity is coddling the conduct of the UN and its agents, creating conflict with the nobler aims set forth for its inception?

It is a discontentment that really does seem to resonate far into a larger stage of international law. Ordinarily, states agree to waive the immunity of their representatives before international tribunals when these states have a conviction or some assurance that their act shall exactly coincide with the goals of that international body in question. A parallel in intention should dictate the same standard for relationship between states and UN agents.[17] The organisation has irradiated its incapacity to establish a sturdy policy framework to further its operational lifecycle. Apart from these startling accusations, the admin functions of the UN have evolved

[13] Ibid (n 8).
[14] Patrick J Lewis, *'Who Pays for the United Nations' Torts?: Immunity, Attribution*, and "*Appropriate Modes of Settlement*"' (2014) 39 North Carolina Journal of International Law 259, 275.
[15] Cedric Ryngaert, *'The Immunity of International Organisations Before Domestic Courts: Recent Trends*' (2010) 7 International Organisations Law Review 121, 142.
[16] Convention on the Privileges and Immunities of the United Nations (adopted 13 February 1946, entered into force 17 September 1946) 1 UNTS 15.
[17] August Reinisch, *'To What Extent Can and Should National Courts "Fill the Accountability Gap"?'* (2013) 10 International Organisations Law Review 572, 589.

into a wholly disturbing domain of cooperation between willing capitalist bodies and the individual corporate actors and interest groups occupied in global commerce.[18]

Besides these, the real nature of UN operations is hardly consistent with conventional paradigms in legal control. Rather, they are treated with a sorry excuse for justice that encompasses a haze of reasoning, misrepresentation, and the indefinitely tainting involvement of big stakeholders leading to the making of rights more obscure or inaccessible altogether. This growing deluge of interests, above all, gives an underscore to the political stakes involved. The problem grows in this respect in that sovereign immunity creates an atmosphere in which the aggressor groups can solely accrue resources at others' expense.[19] Such tensions should allow us to consider the working of universal rules that apply to ordinary business transactions, where the accountability for them and adherence to known positions under the law would generally constitute the basis for such an idea.

The UN's purported immunity from legal proceedings is challenged by established principles of tort law, where courts have recognized potential tort liability for UN operations causing direct harm. Despite clear tort implications, UN legal officers frequently reclassify potential lawsuits as matters of public international law rather than private law claims, exemplified in the Office of Legal Affairs' response to the Haiti cholera claims, where they characterized the deaths of around 10,000 citizens as a "policy matter" rather than a tortious act.[20] The question remains open as to whether the United Nations has been woven into tortious acts against large populations, with examples being the Kosovo Lead Poisoning, Haiti Cholera, Rwandan Genocide and Peacekeeping forces cases. For the first two examples, the response provided by the United Nations in either case was most troublingly uniform: the charges were disregarded as questions not pertaining to private law, that led to a ruling (*NM and Others v UNMIK*) that they were "not receivable" pursuant to the Convention on the Privileges and Immunities of the United Nations.[21] Given below is a detailed account refuting that claim.

[18] José E Alvarez, *'International Organisations: Then and Now'* (2006) 100 American Journal of International Law 324, 341.
[19] Niels Blokker, *'International Organisations: The Untouchables?'* (2013) 10 International Organisations Law Review 259, 275.
[20] UN Office of Legal Affairs, 'Letter from the UN Legal Counsel to Members of U.S. Congress' (UN 2016) UN Doc A/RES/257.
[21] *NM and Others v UNMIK* Case No 26/08 (Human Rights Advisory Panel, 26 February 2016).

A. Kosovo lead poisoning

The Kosovo Lead Poisoning case tells a concerning story of three makeshift camps, quickly set up in the aftermath of the NATO-led intervention of 1999 to accommodate the internally displaced Roma population.[22] Set near the Trepča mines-an extensive network of forty industrial sites cursed by abysmal environmental protocols- these camps lived stifled by a toxic legacy. Heaps of hazardous waste loomed heavily, infecting the atmosphere with lead-tainted dust that contaminated the soil on which crops are grown.[23,24] Despite periodic random inspections by the WHO, raising the alarm that every child below six years was absorbing truly dangerous lead levels, these camps survived for over half a decade, another sad chapter of bureaucratic inertia in the face of strong warnings from UN officials for their immediate closure.[25] Subsequently, private claimants sought redress through a mechanism established by General Assembly Resolution 52/247, endeavouring to secure compensation for the grievous economic repercussions endured. However, on July 25, 2011, the U.N. dismissed their claims with an assertion that they lacked the characteristics of private law matters, framing them instead as a critique of UNMIK's operational mandate.[26] This rejection, delivered without substantial reasoning, merely noted the claims' reference to widespread health and environmental hazards exacerbated by the tenuous security landscape of Kosovo.[27] In a subsequent clarification regarding the overarching stance on private tort claims, the U.N. reiterated its rationale, reinforcing the notion that the grievances articulated were inextricably linked to public law, thus rendering them unapproachable within the realm of private redress.[28]

There was a clear lack of features of a private law nature in the findings of the Organisation, as they involved a perusal of the efficiency of UNMIK's mandate as an interim authority, retaining discretion to devise modalities pertinent to the execution of its interim mandate,

[22] Ibid (n 21) para 25.
[23] World Health Organisation, *'Preliminary Report on Blood Lead Levels in North Mitrovica and Zvecan'* (WHO 2004).
[24] Human Rights Watch, *'Poisoned by Lead: A Health and Human Rights Crisis in Mitrovica's Roma Camps'* (HRW 2009) 4.
[25] Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, UN Doc S/2004/348 (30 April 2004) para 45.
[26] Letter from the Under-Secretary-General for Legal Affairs to the Director of the Legal Liaison Office, UNMIK (25 July 2011).
[27] Dianne Post, *'Lead Poisoning in Kosovo: UN Inaction and the Human Cost of Immunity'* (2018) 26 Human Rights Brief 4, 8.
[28] Bruce C Rashkow, *'Immunity of the United Nations: Practice and Challenges'* (2019) 10 International Organisations Law Review 332, 348.

including the formation of IDP camps.[29] U.N. correspondence also suggests that the issue at hand related to public health and community resources-areas of traditional state capability. As the security environment was highly volatile, it further set off an emergency-like situation, which came into play with regards to the U.N.'s mandate for international peace and security.[30] The involvement of the U.N. in Kosovo during this time must be highlighted: since 1999, it has acted there as a temporary administrator, and thus it operated within an extraordinary and quasi-governmental framework, with powers over both territory and people.[31] The decision to locate the camp in that area, therefore, came quite indirectly to the detriment of that community. These camps may have complied with operational necessity, but it is not apparent that their classification as such was continued. This is particularly acute because awareness of the issue was widespread, and a further five years lapsed before the relocation of the affected population.[32,33]

B. Hatiti cholera catastrophe

A second instance of a claim categorized as "not receivable" by the U.N. encompasses the introduction of cholera to Haiti post the 2010 earthquake, which culminated in over 9,000 fatalities, as highlighted in a front-page exposé by the New York Times in May 2012.[34]

As it trekked through the land of Haiti, in the same fearsome swirl as an uncontained wildfire, the disease culminated into what has become known-the most serious cholera outbreak witnessed by the world while international aid agonizingly picked up the pieces left by the disastrous earthquake of January 12, 2010.[35] Epidemiological and microbiological data converge in a compelling case for the assertion that the cause of the cholera crisis was unintentionally traced to United Nations peacekeeping forces from Nepal, who released untreated wastewater into a tributary of the river adjacent to their camp site due to utterly inadequate sanitation facilities.[36] It is crystal clear that the cholera ravaging Haiti was

[29] UNSC Res 1244 (10 June 1999) UN Doc S/RES/1244.
[30] Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons, UN Doc E/CN.4/2006/71/Add.5 (9 January 2006).
[31] Carsten Stahn, *'The Law and Practice of International Territorial Administration: Versailles to Iraq and Beyond'* (CUP 2008) 291.
[32] European Roma Rights Centre, *'Abandoned Minority: Roma Rights History in Kosovo'* (ERRC 2011) 73.
[33] Report of the Human Rights Advisory Panel Annual Report 2016, UNMIK (2016) paras 89-92.
[34] Deborah Sontag, *'In Haiti, Global Failures on a Cholera Epidemic'* New York Times (31 March 2012) A1.
[35] Report of the Special Rapporteur on Extreme Poverty and Human Rights, UN Doc A/71/367 (26 August 2016) para 12.
[36] Renaud Piarroux and others, *'Understanding the Cholera Epidemic, Haiti'* (2011) 17 Emerging Infectious Diseases 1161, 1165.

inexorably connected to the such black-water waste disposal management at the U.N. Mission in Haiti (MINUSTAH), where the Nepali troops were stationed.

The city's citizens received a death deal: sewage emptied indiscriminately into one of the country's main water sources leads to a public health disaster that contaminated both water and food supply for a huge proportion of the Haitian population.[37] Under the U.N. rules, peacekeepers are not screened for cholera even when coming from hotspots by the disease.[38] Years down the line, Haiti would boast, to its misfortune, the highest cholera incidence in the world for three consecutive years, after which the disease spilled over to the neighbouring shores, including the Dominican Republic and Mexico.[39] In 2012, the IJDH filed a class action lawsuit on behalf of over 5,000 plaintiffs against the United Nations for its role in an outbreak of cholera in Haiti.[40] It sought $50,000 for the injured and $100,000 for the deceased. Improvements in housing and water sanitation were also part of the demands, along with a clear recognition of responsibility.[41] The IJDH argued that cholera had breached Haitian law, as well as some international obligations, notably the right to life.[42]

The U.N., however, took a contrary position, alleging that the claims were of a public or policy law nature.[43] This communication did not conveniently explain its reasoning for considering the claims to be public or policy issues rather than private ones, which would, under Section 29 of the CPIUN, trigger an obligation on the part of the U.N. to "make provisions for appropriate modes of settlement of...disputes of a private law character to which the United Nations is a party."[44] The case of the Haiti Cholera case moved into U.S. courts in 2013, where the plaintiffs filed a case under the name of *Georges et al v. U.N.* in the Southern District of New York (SDNY).[45] The U.S. government proceeded to solidly declare the United Nations' absolute immunity under Article 2 of the CPIUN in a Statement of Interest in response to a

[37] Alejandro Cravioto and others, *'Final Report of the Independent Panel of Experts on the Cholera Outbreak in Haiti'* (2011).
[38] Rosa Freedman and Nicolas Lemay-Hébert, *'Towards an Alternative Interpretation of UN Immunity: A Human Rights-Based Approach to the Haiti Cholera Case'* (2015) 19 Questions of International Law 5, 18.
[39] Pan American Health Organisation, *'Epidemiological Update: Cholera'* (PAHO 2014).
[40] *Petition for Relief, Institute for Justice and Democracy in Haiti (IJDH) v United Nations* (3 November 2011).
[41] Beatrice Lindstrom, *'Law in the Time of Cholera: Violations of the Right to Water in Haiti'* (2015) 40 Yale Journal of International Law Online 1, 12.
[42] Ibid (n 37) 22.
[43] Letter from Patricia O'Brien, Under Secretary-General for Legal Affairs, to Brian Concannon, Director, IJDH (5 July 2013).
[44] Ibid (n 16) s 29.
[45] *Georges v United Nations*, 84 F Supp 3d 246 (SDNY 2015).

request for such from the Court.[46] As spring inched up in 2014, two other class actions rolled forward in the Eastern District of New York (EDNY) and the SDNY, respectively, based on similar legal theories and with common class membership.[47] In January 2015, SDNY ruled to uphold the U.N.'s absolute immunity in Georges et al on grounds that it is an inviolable immunity under the CPIUN unless it is expressly waived.[48] Unfortunate for them, no other modes for the resolution of disputes were available.

The Secretary-General further claimed to back up this designation in a letter to the U.S. Congress on February 19, 2015, thereby revising the definition of private law claims.[49] The Secretary-General stated that in the practice of the Organisation, disputes of private law character have been viewed as disputes that may arise between private parties; that is, claims upon a contract, claims concerning the use of private property in peacekeeping, or claims arising from motor vehicle accidents.[50] These claims, he added, were not receivable under Section 29(a) of the General Convention, as they raised broad matters of policy arising from the functions of the United Nations as an international organisation, thereby ruling them out as private law claims.[51] Accordingly, it was found that these claims were not the type that the claims commission may consider under the SOFA because the relevant provisions of the SOFA also pertained to claims of private law character.

The November 2014 communication from the U.N. Senior Cholera Coordinator supports the U.N.'s narrow new reading of private law claims: In the Practice of the Organisation, disputes of a private law character have been understood to be disputes of the type that arise between two private parties, Section 29(a) has frequently been applied to claims arising under contracts between the United Nations and private parties, to those relating to the use of private property in the context of missions away from Headquarters, and claims arising from vehicle accidents.[52,53]

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[46] Statement of Interest of the United States, Georges v United Nations, No 13-CV-7146 (SDNY filed 7 March 2014).
[47] *LaVenture v United Nations*, 279 F Supp 3d 394 (EDNY 2017).
[48] Ibid (n 45) 251.
[49] Letter from Ban Ki-moon to US Congress (19 February 2015).
[50] Kristen E Boon, *'The United Nations as Good Samaritan: Immunity and Responsibility'* (2016) 16 Chicago Journal of International Law 341, 365.
[51] Ibid (n 16) s 29(a).
[52] Letter from Pedro Medrano, UN Senior Coordinator for Cholera Response in Haiti (25 November 2014).
[53] Bruce C Rashkow, *'Immunity of the United Nations: Practice and Challenges'* (2019) 10 International Organisations Law Review 332, 351.

What is significant is the fact that, other than motor vehicle accidents, torts have been excluded from the scope of the U.N.'s obligation to compensate for private injury. The decision taken by the Secretary-General was made without explanation or public consultation and resulted in a vastly curtailed definition of private law claims.[54] The categorical rejection of torts other than those arising from motor vehicle accidents is striking for any peacekeeping operation, injuries are destined to happen, and the differentiation of torts in the light of how it will impact the U.N.'s liability is not justifiable.[55]

Concurrently, the Secretary-General proposed an enlarged definition of public law claims, for which the U.N. would be immune to suit. The 2014 letter to the Human Rights Special Rapporteurs on the Haiti Cholera case states, "Claims under Section 29(a) are distinct from public law claims, which are understood as claims that would arise between an individual and a public authority such as a State." The letter concludes by suggesting that "[o]n the international level, these claims may be addressed in various ways, such as through political, diplomatic or other means, including a body established for that specific purpose."[56]

Despite the U.N.'s position that the Haiti and Kosovo claims are public or policy matters, and therefore "not receivable" within the U.N.'s internal system, each appears to involve elements of a private law dispute from which the U.N. would not be immune.[57] The plaintiffs were represented by NGOs, not states, and asked for compensation for personal injury and the death of the petitioners' next-of-kin. The claims were based on allegations involving the U.N.'s negligence and "grounded liability, at least in part, in domestic civil law."[58] Both the Kosovo and the Haiti claims appear to fall explicitly within the category of torts claims recognized by the U.N. in other contexts as claims of a private law character related to peacekeeping operations.

B. Rwandan genocide

The Rwandan Genocide of 1994 is one of the most blatant failures of the international community, particularly the United Nations (UN). In an orchestrated campaign by the Hutu-led government, an estimated 800,000 Tutsis and moderate Hutus were slaughtered over a

[54] Ibid (n 17) 590.
[55] Ibid (n 35) para 71.
[56] Letter to Special Procedures Mandate-Holders (25 November 2014).
[57] Philip Alston, *'Against a World Court for Human Rights'* (2014) Ethics & International Affairs 197, 209.
[58] Ibid (n 21) para 163.

period of approximately 100 days.[59] Tort law, rooted in the principle that one must not harm others through negligent or intentional acts, can be applied to institutions tasked with protection. The UN, as a collective body, assumed a duty of care towards Rwandan civilians by deploying the United Nations Assistance Mission for Rwanda (UNAMIR) in October 1993.[60] The mission, led by Canadian General Roméo Dallaire, was specifically charged with implementing the Arusha Accords aimed at ending the Rwandan Civil War.[61] However, on April 6, 1994, following the assassination of President Juvénal Habyarimana, violence broke out, and the UN did not only fail to extend its operational mandate but had troops withdraw, leaving civilians defenceless.[62]

Dallaire had made several alerts to UN headquarters about possible mass violence, the most infamous of which was his January 11, 1994 "Genocide Fax" to Kofi Annan, then the head of UN peacekeeping.[63] The fax included plans by Hutu extremists for the extermination of the Tutsi population. Despite this explicit warning, Annan and his office dismissed the urgency, advising Dallaire to refrain from confiscating weapons caches or engaging in preventative measures.[64] The UN's negligent response and refusal to increase peacekeeping forces reflect a breach of duty akin to gross negligence in tort law, wherein a party knowingly disregards imminent harm.[65]

A basic principle of tort law is that damage must be a probable result of an action or omission. The UN's withdrawal of 90% of its peacekeeping forces, which reduced the number of troops from 2,500 to about 270 in April 1994, clearly contributed to the extent of the massacres.[66] When Belgian peacekeepers were killed during the first wave of violence, the UN succumbed to political pressure and compromised the safety of troops over civilian protection.[67] This made the genocide foreseeable and avoidable harm, thus showing proximate cause.

Besides, Resolution 918 by the Security Council, which ended up sanctioning an increased

[59] Human Rights Watch, *'Leave None to Tell the Story: Genocide in Rwanda'* (1999).
[60] UN Security Council Resolution 872 (1993) UN Doc S/RES/872.
[61] Roméo Dallaire, *Shake Hands with the Devil: The Failure of Humanity in Rwanda* (Random House 2003).
[62] Michael Barnett, *Eyewitness to a Genocide: The United Nations and Rwanda* (Cornell University Press 2002).
[63] Code Cable from Dallaire to Baril (11 January 1994) UN Doc UNAMIR-64.
[64] Linda Melvern, A People Betrayed: The Role of the West in Rwanda's Genocide (Zed Books 2000).
[65] JG Fleming, The Law of Torts (9th edn, LBC Information Services 1998).
[66] UN Security Council, *'Report of the Independent Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda'* (1999) UN Doc S/1999/1257.
[67] Alan Kuperman, *The Limits of Humanitarian Intervention: Genocide in Rwanda* (Brookings Institution Press 2001).

force of peacekeeping personnel in May 1994, was much too late.[68] In July, the reinforcements had reached, and the genocide was nearly over. The delay that was driven by political inertia and a disregard for Rwandan lives is a failure to act within the reasonable window to prevent mass casualties, thereby satisfying the principles of liability in tort law.[69]

The United Nations' invocation of immunity to dismiss legal actions brought by genocide survivors is an affront to its own founding principles of justice and accountability. Cases like *Mothers of Srebrenica v. The Netherlands and United Nations* show that holding the international bodies responsible for failures in maintaining peace is becoming a norm.[70] In this regard, the Dutch Supreme Court decided that the Netherlands was partly responsible for the genocide of Srebrenica, and it challenged the doctrine of absolute immunity for UN.[71] Based on these precedents, the identical legal proceeding might be applied to the Rwandan context, demanding reparations and accountability.

C. Cases against UN peacekeepers

Although not a new phenomenon, allegations of sexual abuse perpetrated by UN peacekeeping forces strongly reflect the systematic failure of international oversight. Complaints of misconduct originating from different missions have surfaced with alarming regularity, especially the Democratic Republic of Congo, early in the 2000s, where peacekeepers practiced overt sexual exploitation and abuse, often involving children.[72] A 2005 UN investigation brought to light the bewildering fact that peacekeepers committed acts of sexual misconduct, usually in exchange for very basic needs-goods, with girls as young as 11 to 14 years sometimes being taken advantage of.[73,74]

In the year 2021, the United Nations orchestrated the repatriation of 450 Gabonese soldiers from the Central African Republic, a move prompted by credible allegations of egregious

[68] UN Security Council Resolution 918 (1994) UN Doc S/RES/918.
[69] Christian Henderson, *The Use of Force and International Law* (Cambridge University Press 2018).
[70] *Mothers of Srebrenica v Netherlands and United Nations* [2012] LJN: BW1999.
[71] *Netherlands v Nuhanović* [2013] ECLI:NL:HR:2013:BZ9225.
[72] UN Office of Internal Oversight Services, *'Investigation into Sexual Exploitation of Refugees by Aid Workers in West Africa'* (Report of the Secretary-General on the Activities of the Office of Internal Oversight Services) UN Doc A/57/465 (2002).
[73] Sarah Martin, *'Must Boys Be Boys? Ending Sexual Exploitation & Abuse in UN Peacekeeping Missions'* (Refugees International 2005).
[74] Code Blue Campaign, *'The UN's Dirty Secret: The Untold Story of Anders Kompass and Peacekeeper Sex Abuse in the Central African Republic'* (AIDS-Free World 2015).

misconduct involving the sexual abuse of minors during their deployment.[75] This wide withdrawal is not merely an isolated occurrence but a stark indication of the entrenched systemic failures within the organisation and brought to light the big barriers to hold anybody accountable. The principle of sovereign immunity, which provides a general shield for UN personnel against punishment in the host country, is often a breeding ground where, on a chillingly regular basis, the perpetrators of many acts get away with it. Though the UN has instituted internal protocols addressing such grave misconduct, these protocols are often the focus of much criticism, primarily revolving around perceived ineffectiveness and lack of transparency. Consequently, innumerable victims remain without redress, whereas peacekeeping forces accused of sexual exploitation are allowed a long leash of impunity where accountability nearly never prevails. Their continued occurrence epitomizes the urgent need for a thorough re-examination of the legal framework laid down for UN peacekeeping that would hold perpetrators of such acts accountable and provide the victims of such heinous acts with the justice they deserve.

Historically, lawsuits against the United States with respect to UN operations have generally failed and this has unveiled the significance of sovereign immunity. In *Doe v. United Nations*, Congolese women alleged sexual abuse by UN peacekeepers in 2017: the ruling was based on sovereign immunity grounds.[76] The decision echoed others of a similar nature, reflecting the view of legal scholar Rosa Freedman that the entrenched nature of immunity obstructs accountability, however serious the allegations may be.[77] These cases show the hurdles that plaintiffs need to jump to seek recompense, thus further isolating the UN, and therefore the United States, from its surrounding political dynamics.

IV. Today's Conversation On The UN's And Its Privileges

A. Losing faith in the UN

Trust in the United Nations is now eroding, as governments and citizens increasingly wonder whether it can create meaningful change. A 2023 Pew Research Centre survey reflected a 15% decline in confidence in the UN's ability to get things done, as only 48% of those surveyed

[75] United Nations, *'Gabon to Withdraw Troops from UN Force in Central African Republic'* (UN News, 15 September 2021).
[76] *Doe v United Nations* No 17-CV-6338 (SDNY 2017).
[77] Ibid (n 38).

across 20 countries indicated trust.[78] It is a case of perceived failures in conflict resolution and peacekeeping. In 2022, Russia and China vetoed eight resolutions on Ukraine and Syria, while the U.S. blocked over 30 resolutions critical of Israel between 2015 and 2023.[79] Criticism focuses on the structure of the Security Council, which often prevents decisive action, where five countries are given inflated control in the name of multilateralism.[80] A 2022 International Crisis Group report noted that 70% of ongoing conflicts are exacerbated by Security Council inaction.[81]

Economic disparities further erode confidence. A 2023 UNCTAD report highlighted that developing countries pay over $400 billion annually in debt servicing, often exacerbated by UN-backed financial structures, leaving fewer resources for domestic development.[82] The above perspective, though a postcolonialist stance, could very well be an argument to state that the UN actively pushed neoliberalism into third world countries in furtherance of prosperity in the first world.[83,84] Diplomatic criticism is mounting. In 2023, South African President Cyril Ramaphosa accused the Security Council of inaction on Gaza with "double standards."[85] French President Emmanuel Macron, in 2022, called for reforms to "end paralysis and restore credibility."[86] Unless change is substantively made, the UN risks decreasing relevance in world governance.[87] All the more reason for it to embrace shifts in policy such as abandoning its privileges and immunities for the sake of taking accountability.

B. Eliminating the UN's privilege

The procedural mechanism for the United Nations to relinquish its sovereign immunity is embedded in international treaties and agreements, primarily the Convention on the Privileges and Immunities of the United Nations in 1946. Under Article II, Section 2 of the Convention,

[78] Pew Research Center, *'International Attitudes toward the UN and Global Cooperation'* (Pew Research, 15 September 2023).
[79] UN Security Council, 'Voting Records and Meeting Minutes 2015-2023' (UN 2023) S/PV.9487.
[80] Bruno Simma and others, *The Charter of the United Nations: A Commentary* (3rd edn, OUP 2022).
[81] Security Council Report*, 'Syria: The Story of the Security Council's Failed Response'* (SCR 2022).
[82] Keaten, J. (2024) *The UN says Global Public Debt hit a record $97 trillion in 2023. developing countries are hard hit*, AP News.
[83] Balakrishnan Rajagopal, International Law from Below: Development, Social Movements and Third World Resistance (Cambridge UP 2021).
[84] Antony Anghie, 'The Evolution of International Law: Colonial and Postcolonial Realities' (2006) 27(5) Third World Quarterly 739.
[85] 'South Africa's Ramaphosa Criticizes UN Security Council Over Gaza' Reuters (Johannesburg, 12 December 2023).
[86] 'Macron Calls for UN Security Council Reform' Le Monde (Paris, 22 September 2022).
[87] Thomas G Weiss, 'The UN at a Critical Crossroads: Time for Reform' (2023) 37 Global Governance 415.

the UN enjoys comprehensive immunity from legal proceedings except in cases where it expressly waives such immunity.[88] However, this must be absolute and unconditional in nature, being decided by the Secretary-General or an officer granted such authority to waive sovereign immunity, and subject to certain identified cases. Multilateral negotiations shall be undertaken; the outcome can be an amendment to the convention or a wholly new international convention ratified by signatory states, to effect total revocation. This procedural exercise would require a vote by the UN General Assembly, often required for such significant legislative changes to take place.[89] The Security Council may also have an interest in discussing political aspects connected to sovereign immunity, specifically related to peacekeeping and humanitarian missions. This procedural complexity alone confirms that such an event is unlikely in which the UN would choose to surrender its sovereign immunity en masse.

The consequences of abandoning sovereign immunity would be deep and far-reaching. In the absence of immunity, the UN could face lawsuits and legal claims in national courts across the globe, leaving the organisation open to financial liabilities, operational disruptions, and political interference.[90] Such exposure may slow down peacekeeping operations, make humanitarian aid delivery more complicated, and even obstruct diplomatic engagement. Furthermore, UN personnel might be deterred from undertaking missions in volatile regions due to the risk of legal entanglements, undermining the UN's capacity to address global crises. Recent developments suggest limited prospects for a comprehensive waiver of the UN's sovereign immunity. In 2023, debates surrounding accountability for peacekeeping abuses in Haiti and the Central African Republic intensified calls for greater transparency and responsibility.[91] However, instead of proposing to surrender immunity, UN officials have advocated for internal reforms and strengthening oversight mechanisms, with victim assistance programs.[92] This reflects the posture of the UN in regard to sovereign immunity while attempting to show some accountability through non-legal mechanisms.

V. The United States' Strategic Advantage

The international dynamics seen clearly in extreme times of crises in international relations and

[88] Ibid (n 16) s 2.
[89] UNGA Rules of Procedure (2023) ch. XVIII r 163.
[90] Sean D Murphy, *'Immunity Rationing in International Organisations'* (2012) 106 AJIL 46.
[91] UN Office of Internal Oversight Services, *'Evaluation of the Implementation and Results of Protection of Civilians Mandates in United Nations Peacekeeping Operations'* (2023) A/77/301.
[92] UN General Assembly, *'Accountability at the United Nations'* (2023) A/RES/77/228.

statesmanship are indicative of how the United States of America might have a bigger stake in the argument about the United Nations' privileges. An example of this intricate line of dance taking place during such a time is the Gulf War of 1991. On November 29, 1990, led by the U.S., the Security Council of the United Nations passed resolution 678 to authorize the use of force in liberating Kuwait from Iraq.[93] This staged what looked like a united global response to open aggression, but the actual physical military action was very much intertwined with U.S. strategic aspirations-to protect vital oil reserves and reassert American hegemony over the Persian Gulf.[94] Historian Richard Immerman suggests that the Gulf War displayed American military dominance within the framework of international law, with the United Nations providing the essential diplomatic legitimacy.[95] Iraq's invasion reveals a familiar twist by 2003. This time, the U.S. pursued a UN endorsement for military action, leveraging fears regarding weapons of mass destruction (WMDs) to substantiate its warlike intentions. Notably, Security Council Resolution 1441, passed in November 2002, called for 'serious consequences' against Iraq for noncompliance with several disarmament obligations but explicitly refrained from granting a green light for military action at that time.[96] Bush interpreted the resolution expertly as a legal basis for invasion while explicitly negating the need for direct Security Council approval. This move raised a hackle from former UN Secretary-General Kofi Annan, who remarked in 2004 that the Iraq War was "illegal under international law."[97] While strong international condemnation existed, the U.S. adroitly blended past UN resolutions to create a smokescreen of legitimacy around its unilateral action.

The use of economic sanctions, particularly in connection with the independence and effectiveness of the United Nations, remains central to the authority and function of the US foreign policy. In terms of North Korea's intercontinental ballistic missile tests in the summer of 2017, this time the U.S.-led UN Resolution 2397 came into play, imposing stifling economic restrictions, reducing refined petroleum imports from North Korea by 90% or thereabouts.[98] These sanctions were put in place through the leadership of the United States and reflected Washington's choice of establishing maximum pressure on Pyongyang through international consensus.[99] Further, the United States has deftly steered UN peacekeeping missions into

[93] UNSC Res 678 (29 November 1990) UN Doc S/RES/678.
[94] Richard N Haass, *'The Gulf War: Its Place in History'* (Council on Foreign Relations, 1999).
[95] Richard H Immerman, *'The United States and the Gulf War of 1991'* (2014) 25(2) Diplomatic History 327.
[96] UNSC Res 1441 (8 November 2002) UN Doc S/RES/1441.
[97] BBC News, *'Iraq War Illegal, Says Annan'* (BBC News, 16 September 2004).
[98] UNSC Res 2397 (22 December 2017) UN Doc S/RES/2397.
[99] Marcus Noland, *'The Impact of North Korean Sanctions'* (Peterson Institute for International Economics 2018).

consonance with its larger geopolitical ambitions and aspirations. While irrefutable evidence has laid bare the UN complicity in this humanitarian crisis, sovereign immunity has shielded the organisation from accountability. Sovereign immunity has led to impunity for large-scale damage arising from UN operations and has stood in the way of accountability and depreciation of public trust.[100]

This may entail massive litigation against the UN operations, which might affect the financial stability and diplomatic strength of the U.S. As part of this, consider the implications following the cholera outbreak in Haiti after 2010, where American financial contributions for UN peacekeeping could potentially bring claims against the Haitian state in the range of billions of dollars.[101] In a similar vein, disturbing allegations concerning sexual exploitation by UN peacekeepers in the Central African Republic (2014) and South Sudan (2016)-areas greatly supported by U.S. financial help-carry the threat of hefty compensation claims. These cases are documented in detail by Human Rights Watch's investigations of 2017-to demonstrate the irony of sovereign immunity: a cloak for any possible offender.[102] For this reason, the masterly manipulation of the UN mechanisms for achieving U.S. geopolitical aims strongly signifies the necessity of sovereign immunity in protecting American rights. Once this protective legal shield is lifted, the country opens itself to wrongful claims and, in the end, a legal maelstrom. It is conceivably only by virtue of the sovereign immunity enjoyed by the U.S.: that it continues to entrench its hegemonic status in the UN and continue to influence the world from the pedestal of cooperative posture. Hence, the safeguarding of immunity for the UN is, for the U.S., a non-dependent requirement for the maintenance of U.S. geopolitical interests, as well as undeterred support of foreign policy initiatives across the international platform.

A. Sovereign Immunity Waiver: Prospects for America

Ultimately, sovereign immunity remains a bedrock principle that will protect the operational independence and diplomatic integrity of the UN.[103] Even if discussions over reform continue, the procedural and political barriers to immune relinquishment as well as the organisation's commitment to increase internal accountability further support the position that sovereign

[100] Philip Alston, *'The United Nations and Human Rights: A Critical Appraisal'* (2017) Oxford University Press.
[101] Beatrice Lindstrom, *'Accountability for the Haiti Cholera Crisis'* (2016) 36 Yale Law & Policy Review.
[102] Human Rights Watch, *'UN: Stop Sexual Abuse by Peacekeepers'* (Human Rights Watch, March 2017).
[103] August Reinisch, *'The Immunity of International Organisations and the Jurisdiction of Their Administrative Tribunals'* (2008) 7 Chinese Journal of International Law 285.

immunity of the UN is here to stay for the foreseeable future.

If immunity from the UN is lifted, one might expect the most sweeping alteration in the existing power dynamics that have always favoured the U.S. Nation-states that have suffered under U.S.-instigated interventions from the UN—be that sanctions, peacekeeping missions, or military action—might use that opportunity to bring litigation involving the specific actions and decisions of American leadership.[104] Sovereign immunity provides a protective barrier that allows the U.S. to operate within the UN without fear of counterattacks through legal redress, and this hurdle, if stepped away from, would not only unravel America's standing in another global governance but could create serious financial obligations through such legal claims and compensation duties.[105]

The U.S. has, historically, taken its seat in the Council supposedly only to thwart resolutions that come counter to its foreign policy aspirations—it has vetoed more than 80 times up to 2023.[106] The repeated vetoes against Resolutions critical of Israel signify the perennial nature of the U.S.-Israel alliance. It is documented that between 1972 and 2023, the U.S. has vetoed more than 50 resolutions condemning Israeli actions in Palestine, indicating a blatantly systematic strategic function intrinsic to that alliance.[107] Washington's relentless use of its veto to protect Israel underscores the strategic and political significance that the alliance entails for American foreign policy.[108] In such an event, without sovereign immunity, Palestinians and others could possibly sue the UN for its failure to intervene during conflicts or mitigate humanitarian disasters. Because the U.S. often uses its veto to protect its allies from prosecution, it could find itself embroiled in the legal consequences. This precarious position extends from the Middle East toward other regions where U.S.-backed interventions occurred, such as Yugoslavia, Iraq, and Libya. By intermingling U.S. foreign policy with UN actions, Washington places itself in a precarious legal position were sovereign immunity to go out of the window.[109]

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[104] Cedric Ryngaert, *'The Immunity of International Organisations Before Domestic Courts: Recent Trends'* (2010) 7 International Organisations Law Review 121.
[105] Sean D Murphy, *'Immunity Ratione Personae of Foreign Government Officials and Other Topics: The Sixty-Fifth Session of the International Law Commission'* (2012) 108 AJIL 41.
[106] UN Security Council, Voting Record and Meeting Minutes 1946-2023' (UN 2023) S/PV.9487.
[107] Security Council Report, *'The Veto Record in the Security Council 1972-2023'* (2023) Special Research Report No. 4.
[108] Phyllis Bennis, *'Understanding the US-Israel Alliance: What the Critics Say'* (2018) 24 Middle East Policy 88.
[109] Christine Gray, *'The Use of Force and the International Legal Order'* in Malcolm Evans (ed), International Law (4th edn, OUP 2013).

As of 2023, the United States is the largest donor country to the United Nations, contributing about 22% of its general budget and a further 25% toward peacekeeping operations.[110] The financial strength provides a measure of influence over what and how policies are determined in many of the UN agencies, stretching out to the World Bank and the IMF too. The idea of abolition of sovereign immunity sets a perilous precedent, wherein there could be a serious and plausible tendency on the part of governments or individuals who filed complaints against the United Nations "for developmental projects or peacekeeping actions," thus endangering the United States with the inevitable implication of legal actions by governments or individuals who seek redress against them for injury due to UN's operations or peacekeeping missions.[111] Take, for example, the fallout from the cholera outbreak in Haiti in 2010, a crisis directly attributed to UN peacekeepers. The introduction of cholera into Haiti by UN peacekeepers resulted in over 10,000 deaths, yet legal immunity prevented the victims from seeking justice.[112]

An excellent example of the American bias was the participation of Iranian Foreign Minister Javad Zarif in high-level UN General Assembly meetings in 2019, during heightened tensions between the U.S. and Iran.[113] The sovereign immunity granted Zarif was a clear indicator of the role of the UN as a neutral ground for discussion.[114] The ability to accommodate adversary states and ensure uninterrupted diplomatic communication directly advances U.S. interests by facilitating de-escalation and communication.[115] This instance wouldn't be news to anyone considering that this focus on restoring diplomatic relations is one of the UN's functions. However, what makes it special is the fact that despite it being a core part of the UN's mandate, it's an occasion no rarer than a blue moon that this de-escalation actually works out during a session. Of course, to the trained eye, it would be credible to note that this de-escalation has a broader consequence of the American hope of Iran returning to honour the Joint Comprehensive Plan of Action (JCPOA or Iran nuclear deal), an agreement reached in 2015 between the US and the rest of P5 where the US stands to boost its own nuclear dominance.[116]

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[110] UN General Assembly, *'Scale of assessments for the apportionment of the expenses of the United Nations'* (2023) A/RES/76/238.
[111] Jan Klabbers, *'The EJIL Foreword: The Transformation of International Organisations Law'* (2015) 26 EJIL 9.
[112] Jonathan M Katz, *The Big Truck That Went By: How the World Came to Save Haiti and Left Behind a Disaster* (Palgrave Macmillan 2016).
[113] *'Iran FM Zarif arrives in New York for UN meetings amid US tensions'* Reuters (New York, 14 July 2019).
[114] *'Diplomatic Immunity and International Relations'* (2019) UN Journal of Diplomatic Affairs 12.
[115] Richard Haass, *'The UN's Essential Role in International Diplomacy'* (2019) 98 Foreign Affairs 28.
[116] House of Commons Library, *'UN Contributions and US Funding Cuts'* (UK Parliament, 24 January 2024) CBP-9870.

Economically, the presence of the UN in New York contributes billions of dollars annually to local economies through employment, tourism, and infrastructure investment. A 2018 UN Development Programme study estimates that the UN contributed $3.69 billion to New York City's economy.[117] So long as economic relationships enjoy immunity from legal disputes likely to scare off the UN from keeping its headquarters in the United States, the UN will maintain its sovereignty.[118]

The United States seeks global stability by facilitating peacekeeping processes in troubled areas, including Haiti, South Sudan, and Mali, especially if their instability affects wider American security and economic interests.[119] Yet, these UN-led missions are tainted with shadows - serious allegations of sexual misconduct, abuse, and harm committed against civilians. A particularly troubling instance emerged in 2014 during the Central African Republic (CAR) debacle, wherein UN peacekeepers were accused of engaging in acts of sexual exploitation. A damning report released by the Associated Press in 2017 articulated that at least 41 peacekeepers faced allegations of sexual abuse in CAR, yet the architecture of sovereign immunity curtailed the capacity to hold these perpetrators accountable.[120] In this very precarious situation, one could see the balance diplomatically kept between the UN Human Rights Council acting as a tool in pressuring foe nations while wearing a protective cloak for allies- sanctions against North Korea imposed in 2017 through the UN in retaliation for missile provocations could not have more shown the American concern on nuclear non-proliferation.[121]

The possible repercussions concerning liability for UN sanctions or military interventions could bring officials and policymakers in the U.S. face to face with culpability. Such exposure would necessarily fragment the very operational context in which the UN became a critical part of American strategic foreign policy but begin to nudge the United States towards less legitimate unilateral actions not conferred with the legitimacy of multilateral concurrence. Without immunity, the United States relinquishes a key diplomatic advantage to assure the good standing of such sanctions and military actions.[122] Although the US has lost interest in

[117] UN Development Programme, *'Economic Impact Assessment of the UN System in New York'* (UNDP 2018).
[118] James Fawcett, *'The Impact of Article 50 of the Convention on UN Headquarters'* (2016) 27 EJIL 909.
[119] US Department of State, *'United States Participation in the United Nations'* (Annual Report to Congress 2022).
[120] *'UN Peacekeepers' Sexual Abuse of Civilians'* Associated Press (New York, 12 April 2017).
[121] UN Security Council, *'Resolution 2397 on Non-proliferation/Democratic People's Republic of Korea'* (S/RES/2397, 2017).
[122] Kathryn Sikkink, *'The Hidden Face of Rights: Toward a Politics of Responsibilities'* (Yale UP 2019).

UN climate efforts with its withdrawal from the Paris Agreement,[123] it has still used the forum to win preferable conditions within the tapestry of the international agreements. The Paris Climate Change Agreement 2015 embodied the fragile nexus between economic desire and environmental protection under the leadership of President Barack Obama.[124] Should the UN's sovereign immunity be compromised, developing nations—those most acutely impacted by climate change—might pursue litigation against the organisation for perceived inadequacies in its policy responses.[125] Given its status as a principal financier of the UN, the U.S. would likely encounter parallel claims, amplifying the urgency to fulfil costly climate obligations or face reparative demands from the most vulnerable states. The United States may end up being responsible for the UN's failures in meeting the climate goals because it happens to be the biggest financier of international climate treaties.[126]

VI. Conclusion

The sovereign immunity of the United Nations is an outdated and unjustifiable barrier to accountability, allowing the organisation to escape responsibility for grave human rights abuses and environmental damage. Cases like the Haiti cholera outbreak, Rwandan Genocide, Kosovo lead poisoning and UN Peacekeepers scandals reveal the devastating consequences of shielding the UN from legal scrutiny. This immunity erodes trust in the institution while undermining the principles of justice and human rights the UN claims to uphold. Such strategic benefits accruing to the United States, therefore, are made at the cost of the most vulnerable and at the integrity of international law. This is the time to tear this unjustified legal shield down and make the UN, like any other actor, accountable. True multilateralism cannot succeed in the kind of environment in which absolute power is allowed, and harm goes unchecked. Reforming sovereign immunity is not just a matter of law; it is a moral necessity for a more just and equitable international order.

[123] Xiaodong Yang and Jingwei Liu, *'Nuclear Deterrence in Cyber Space: New Challenges for Security and Arms Control'* (2017) 3(4) Journal of International Security Studies 84.
[124] Daniel Bodansky, *'The Paris Climate Change Agreement: A New Hope?'* (2016) 110 AJIL 288.
[125] Benoit Mayer, *'Climate Change Reparations and the Law and Practice of State Responsibility'* (2017) 7 Asian Journal of International Law 185.
[126] UN Framework Convention on Climate Change, *'United States First NDC'* (UNFCCC 2016).

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