

Forum: Legal Committee (GA6)

Issue: Establishing an international legal framework concerning political immunity

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INTRODUCTION

Political immunity is a privilege granted to people working for the interests of a government and which under national and international law allows them to carry out their duties without interference from outside forces, including the law. People that are mostly benefitted from it are Government Officials, United Nations employees, ambassadors, and leaders of States or governments¹. Such measures are of great importance for organizations such as the United Nations mainly due to the fact that it gives an efficient solution by simply shielding politicians from criminal prosecution and legal harassment.

Immunity is a measure used at international level to safeguard the sovereignty and independence of States by preventing them or their representatives from being tried in other countries². As a result, those who have been granted political immunity, for example, diplomats or exclusive personnel of a government body, are able to engage in open negotiations and dialogues without the fear of personal consequences. As stated above, Government Officials, United Nations employees, ambassadors, and leaders of State or governments are the principal beneficiaries. Immunity has been established by several international treaties, as well as customary international law. Immunity is never absolute and is typically limited to actions taken while performing official duties when a person is in that position.

There are two categories of immunities recognized by both national and international law. Firstly, immunities that are related to a function, or that cover specific actions taken by different State officials and which continue after an official's term in office. Secondly, personal immunities, which are affixed to people because of their stature and persist as long as the individuals in question are in office, cover any actions taken by those who benefit from the immunity³. In the event that the political or legal entities in charge of the various official

¹ Convention on the Privileges and Immunities of the Specialized Agencies

https://www.unesco.org/en/legal-affairs/conv-agencies-privim?TSPD_101_R0=080713870fab20001bc3b07c6503dc94e322bab9362027a4c33d314ef18fdd502e5d590bfdb5d2b8086bf1ea4c143000ae40024afd6d3f7a91605d2e95c89d248e01af499f7c763c3e0fb02fccecc0c916800b79067a27f0906f466142186bcf

² Kenton, Will. "What Is Immunity?" Investopedia, Investopedia, 23.5.23

<http://www.investopedia.com/terms/i/immunity.asp>

³ Diplomatic immunity *ratione materiae*, immunity *ratione*

<https://learninglink.oup.com/access/content/bantekas-and-papastavridis-concentrate4e-resources/bantekas-and-papastavridis-concentrate4e-chapter-7-self-test-questions>

responsibilities commit serious infractions, immunity may be revoked. The International Court of Justice and several regional courts can hear cases involving the State's responsibility for illegal action, which is distinct from criminal culpability.

The topic of this year's DSAMUN conference is “Ethics”, which connects to the topic at hand in several ways. First and foremost, we ought to bear in mind that Political immunity raises ethical questions regarding accountability and the rule of international law. Granting immunity to government officials and representatives can create a situation where they are shielded from criminal prosecution and legal consequences, potentially allowing unethical behavior. This raises concerns about transparency, fairness, and the responsibility of those in positions of power. In contradiction to this issue, political immunity is a measure used to safeguard the sovereignty and independence of states. However, it also raises ethical considerations about the balance between state sovereignty and the need for accountability.

DEFINITION OF KEY-TERMS

State Officials

State official means the governor, lieutenant governor, secretary of state, attorney general, legislative auditor general, and constitutional court administrator. The role of the state official is to promote the state economy and to take operational control over most government programs for individuals, such as programs that help society as a whole and risk management⁴.

Tribunals

A body established to settle certain types of disputes (e.g. the United Nations)⁵.

Immunity

Protection or exemption from something, especially an obligation or penalty. The immunity of the state can be invoked only in relation to sovereign acts, or “Acta jure imperii”, and not in relation to private acts. Immunities can act as an ardor for more diplomats to solve world-concerning issues because they will no longer fear direct threats while posing their opinions on the matter⁶.

⁴ What's an elected official.,26.5.2023 <https://www.usa.gov/elected-officials>

⁵ Introduction to Tribunals.,26.5.23 <https://www.judiciary.uk/courts-and-tribunals/tribunals/about-the-tribunals/tribunals/>

⁶ Diplomatic immunity *ratione materiae*, immunity *ratione*

International Law

The body of legal rules, norms, and standards that apply between sovereign states and other entities that are legally recognized as international actors⁷.

Criminal Culpability

Culpability is the legal responsibility for a criminal act⁸.

Felony

A felony is traditionally considered a crime of high seriousness⁹.

Misdemeanor

A misdemeanor is regarded as less serious than Felony¹⁰.

Opinio juris

In customary international law, opinio juris is the second element necessary to establish a legally binding custom. Opinio juris denotes a subjective obligation, a sense on behalf of a state that it is bound to the law in question. The International Court of Justice reflects this standard in ICJ Statute, Article 38(1)(b) by reflecting that the custom to be applied must be "accepted as law". As with customary international law, opinio juris is an unsettled and debated notion in international law¹¹.

BACKGROUND INFORMATION

Political immunity of State officials

<https://learninglink.oup.com/access/content/bantekas-and-papastavridis-concentrate4e-resources/bantekas-and-papastavridis-concentrate4e-chapter-7-self-test-questions>

⁷ International law https://en.wikipedia.org/wiki/International_law

⁸ Culpability <https://www.law.cornell.edu/wex/culpability>

⁹ Felony <https://en.wikipedia.org/wiki/Felony>

¹⁰ Felony <https://en.wikipedia.org/wiki/Felony>

¹¹ "Opinio Juris (International Law)." Legal Information Institute, [www.law.cornell.edu/wex/opinio_juris_\(international_law\)](http://www.law.cornell.edu/wex/opinio_juris_(international_law)).

Heads of State and government do not have immunity established by international treaties. The immunity of heads of State results from custom and is comparable to diplomatic immunity on a global scale. This practice is always open to change by definition, as demonstrated in 1999 by a number of judgments handed down by British and Spanish judicial authorities in the case of the former president of Chile, Augusto Pinochet¹²; the indictment of the former head of state of Yugoslavia¹³, Slobodan Milosevic; or the indictment of the former head of state of Liberia¹⁴, Charles Taylor, by the Special Court for Sierra Leone in May 20 1999.

EVOLUTION OF BRITISH JURISPRUDENCE IN THE
EXTRADITION OF GENERAL AUGUSTO PINOCHET:
APPLICATION OF INTERNATIONAL HUMAN
RIGHTS TREATY TRUMPS SOVEREIGN IMMUNITY

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INTRODUCTION

Although there exists a plethora of conflicting case law regarding immunity for ex-heads of state, there seems to be a consensus that sovereign immunity should not apply in the case of a former head of state who is charged with crimes banned by international conventions, such as torture and kidnapping.¹

The alleged crimes committed by General Augusto Pinochet during his 17-year rule as President of Chile are indicative of human rights violations universally condemned.² Therefore, immunity should not be afforded to this ex-head of state.

Sovereign immunity was never meant as an absolute personal shield but rather an instrumentality to enable diplomats to conduct their countries' official business. To invoke sovereign immunity for universally condemned human rights violations, such as murder, genocide, torture, kidnapping, etc., committed while in an official capacity, would be a crime itself.

In this paper I shall attempt to examine the question under debate since October 1998, which centers on Britain's involvement in the extradition of Pinochet to Spain to account for crimes committed in Chile against Spanish citizens.

One school of thought argues that a state's "universal responsibility" empowers it to prosecute another country's allegedly criminal leadership

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1. See Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Annex U.N. G.A. Res. 46 OXXXIX 1984), 23 I.L.M 1027 (1984), as modified, 24 I.L.M. 535 (1985). The United Kingdom (among others), became a signatory to the "Torture Convention" on December 8, 1988; therefore, after that date violators have no immunity for crimes covered by the convention.

2. Amnesty International News Release, *Pinochet—the absence of immunity for crimes against humanity*; Amnesty International, *submits case to the House of Lords*, Nov. 3, 1998. <<http://www.amnesty.org/news/1998/23no98.htm>>.

JUDGMENTS HANDED DOWN BY BRITISH AND SPANISH JUDICIAL
AUTHORITIES IN THE CASE OF THE FORMER PRESIDENT OF CHILE,
AUGUSTO PINOCHET

International humanitarian law enforces the punishment of those accused of war crimes if those people in positions of authority and those performing official duties were absolved in armed situations. In circumstances of war crimes, international humanitarian law emphasizes that hierarchical superiors are personally responsible for their actions unless they can demonstrate that they did not give the order or that they took all practical steps to halt the violations¹⁵. Thus, humanitarian law establishes the obligation to defy unfair

commands. International law establishes that, in the case of war crimes or "crimes against humanity", genocide and torture, no one may use his or her official status to claim immunity in an attempt to avoid facing justice¹⁶.

Diplomatic Immunity

¹² The case of the former president of Chile, Augusto Pinochet

<https://nsuworks.nova.edu/cgi/viewcontent.cgi?article=1285&context=ilsajournal>

¹³ Slobodan Milošević Trial - the Prosecution's case <https://www.icty.org/en/content/slobodan-milošević-trial-prosecutions-case>

¹⁴ arrest warrant against Charles Taylor, the incumbent President of Liberia.

<https://www.asil.org/insights/volume/8/issue/16/arrest-warrant-against-liberian-president-charles-taylor>

¹⁵ Command Responsibility for Failure to Prevent, Repress or Report War Crimes

<https://ihl-databases.icrc.org/en/customary-ihl/v2/rule153>

¹⁶ international legal Protection of Rights in armed Conflicts

https://www.ohchr.org/sites/default/files/Documents/Publications/HR_in_armed_conflict.pdf

The Vienna Convention on Diplomatic Relations¹⁷, which was adopted on April 18, 1961, and went into effect in 1964, established the concept of diplomatic immunity. The following are some of the immunities that cover diplomats.

First and foremost, immunity from every arrest and custody (Article 29)¹⁸. This states that "the person of a diplomatic agent shall be inviolable". He or she cannot be detained or put under arrest. Continuing with, immunity from judicial procedure or jurisdiction (Article 31)¹⁹. A diplomat is not subject to legal action by any court of the country in which he or she is stationed. This guarantee is valid regardless of the severity of the alleged offense (felony or misdemeanor) and regardless of whether the activities were carried out while the diplomat was performing their duties. A diplomatic agent is not required to testify as a witness, according to Article 31. The diplomat's home State, however, has the option to renounce the immunity from jurisdiction.

It is important to note, that the 1961 Vienna Convention²⁰, as well as the 1946 UN Convention, do not support this position and provide that immunity is general, despite the claim that it does not apply to the most serious crimes, such as crimes against the peace, war crimes, crimes against humanity, and acts of genocide.

Political immunity and diplomatic immunity are two distinct forms of legal protection granted to individuals in the realms of politics and diplomacy. Political immunity is designed to shield politicians and public officials from legal actions or prosecutions related to their official duties, ensuring their ability to govern effectively without fear of harassment or legal consequences. It applies within the jurisdiction of their own country and covers a wide range of acts and statements made in the course of their duties. On the other hand, diplomatic immunity is a principle that grants protection to diplomats and embassy staff members stationed in foreign countries. It aims to facilitate smooth diplomatic relations by safeguarding diplomats from the laws and jurisdiction of the host country, thus allowing them to carry out their diplomatic functions without fear of arrest or prosecution. Diplomatic immunity is governed by the Vienna Convention on Diplomatic Relations and extends extraterritorially, ensuring diplomats can only be prosecuted by their home country.

¹⁷ Vienna Convention on Diplomatic Relations

https://legal.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf

¹⁸ The Vienna Convention (Article 29)

https://legal.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf

¹⁹ The Vienna Convention (Article 31)

https://legal.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf

²⁰ The Vienna Convention

https://legal.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf

Jurisdictional Immunity of States

The European Convention on State Immunity²¹, enacted by the Council of Europe in Basel on May 16, 1972, and the United Nations Convention on Jurisdictional Immunities of States and Their Property, adopted on December 22, 2004, both control the jurisdictional immunity of States. These conventions state that if the facts giving rise to the injury or damage occurred in the territory of the State of the Forum and the party who caused the injury or damage was present there at the time those facts occurred, the State of the Forum may not assert immunity from the jurisdiction of a court of another Contracting State in proceedings relating to redress for injury to the person or damage to tangible property. The European Convention further states that nothing may impair the immunities or privileges that a Contracting State enjoys in connection to anything that its military forces do or omit to do while on the territory of another Contracting State.

The fact that so few States have ratified these treaties, however, limits their scope of application. As of June 2015, only eight countries—Austria, Belgium, Cyprus, Germany, Luxembourg, the Netherlands, the United Kingdom, and Switzerland—had ratified the European Convention. Additionally, because it requires at least thirty ratifications, the United Nations Convention on Jurisdictional Immunities of States and Their Property has not yet come into effect, since only eighteen countries have approved it as of April 2013.

The Inter-American Convention on States' Jurisdictional Immunities (a draft treaty aimed at establishing guidelines and principles regarding the jurisdictional immunities of states in the context of international law within the Inter-American system.)²² That convention seeks to provide a legal framework for determining when a state can claim immunity from the jurisdiction of other states' courts.

Past misuse of immunity

While political immunity is intended to protect diplomats and government officials in the course of their duties, there have been instances where politicians have misused this immunity for illicit purposes. For instance, Jean-Bedel Bokassa served as the President of the Central African Republic, he was accused of human rights abuses and crimes against humanity during his rule from 1966 to 1979. He allegedly used his political immunity to shield himself from prosecution until he was overthrown²³. Continuing with Meng Hongwei, the former President of Interpol, was arrested in China in 2018 on charges of corruption. As a high-ranking Chinese official, he

²¹ The European Convention on State Immunity https://wipolex-res.wipo.int/edocs/lexdocs/treaties/en/ce-74si/trt_ce_74si_001en.pdf

²² Inter-American Convention On Jurisdiction In The International Sphere For The Extraterritorial Validity Of Foreign Judgments <https://www.oas.org/juridico/english/treaties/b-50.html>

²³ Jean-Bedel Bokassa <https://www.britannica.com/biography/Jean-Bedel-Bokassa>

enjoyed political immunity while serving as Interpol's president, which some argue could have potentially influenced his alleged misconduct of violation of human rights²⁴. Last but not least, Omar al-Bashir was the former President of Sudan, he had been accused of war crimes, crimes against humanity, and genocide related to the conflict in Darfur²⁵. He used his political immunity to evade arrest warrants issued by the International Criminal Court (ICC) until he was eventually deposed in 2019.

The Importance of Creating an International Legal Framework Concerning Political Immunity

Given the fact that political immunity provides protection to sovereign states and their representatives, such as heads of state, diplomats, and government officials, from legal action in foreign jurisdictions by creating a legal framework we can ensure that state officials can effectively engage in diplomatic relations without fear of arbitrary arrest or prosecution, safeguarding their sovereignty and independence. Moreover, diplomatic relations between nations rely on trust and mutual respect.

Political immunity helps maintain these relations by providing assurance that diplomatic envoys and officials can perform their duties without undue interference. Thus, this framework can foster open communication, negotiation, and peaceful resolution of disputes between states.

Another reason why we should implement legislative power to protect political immunity is, that it encourages states to engage in international cooperation. It enables diplomats and government officials to participate in negotiations, attend international conferences, and engage in dialogue without the fear of legal reprisal. This cooperation is essential for addressing global challenges and advancing common interests.

MAJOR COUNTRIES AND ORGANIZATIONS INVOLVED

China

China generally upholds an absolute view of governmental immunity. The significance of state sovereignty and refraining from meddling in the internal affairs of other states is emphasized. China has steadfastly defended the idea of state immunity as a cornerstone of international law and has been wary of any potential abuse of exceptions to state immunity for political purposes. Political immunity is a crucial part of maintaining state sovereignty in China, which places a lot of importance on it. It maintains that governments should be free to manage their internal affairs without outside influence. China supports the idea that foreign officials, particularly political

²⁴ Meng <https://www.bbc.com/news/world-asia-china-51185838>

²⁵ Omar al-Bashir former President of Sudan <https://www.icc-cpi.int/darfur/albashir>

leaders, should enjoy immunity from the jurisdiction of other governments' tribunals and promotes non-interference in the internal affairs of other nations. It contends that immunity upholds state sovereignty and aids in preventing outside intrusion.

France

France generally takes a restricted stance on governmental immunity. Even in the absence of particular legislation, French courts have taken an active role in deciding instances involving violations of human rights perpetrated by foreign officials. France has also backed international criminal tribunals and other systems for holding people accountable for serious crimes. For example, the Extraordinary Chambers in the Courts of Cambodia (ECCC) that France has supported, is a tribunal established to address the crimes committed during the Khmer Rouge regime in Cambodia. France has contributed financial support and legal expertise to the court and has assisted in promoting the rule of law and accountability in Cambodia.

Russia

Russia adopts a rigid theory of sovereign immunity, claiming complete immunity for all governmental actions. It asserts that in order to secure the efficient operation of sovereign nations, state immunity is a crucial component of international law. In terms of the responsibility of state officials, Russia has consistently resisted exceptions to the rule of state immunity. The Vienna Convention on Diplomatic Relations (1961), which offers ambassadors immunity from the authority of the receiving state, is firmly upheld by Russia. Russia stresses the importance of diplomatic immunity for the smooth operation of diplomatic relations and the safety of diplomats. Russia emphasizes the idea of sovereign equality, which states should be accorded the same treatment under international law. It supports the notion that states and their representatives, especially political figures, should be exempt from the legal authority of courts in other states in this situation.

United Kingdom (UK)

The United Kingdom has traditionally followed a restrictive approach to state immunity, similar to the United States and France. It recognizes the principle of state immunity but allows for exceptions in certain cases, particularly concerning commercial or private acts. The UK aims to find a balance between granting officials' immunity and making sure they are held accountable for their conduct. It acknowledges the necessity of upholding the concepts of sovereign immunity and diplomatic protection, as well as the significance of holding those responsible for grave breaches of international law accountable. Concerning political immunity, the UK prioritizes issues of human rights. It acknowledges that political figures should not be shielded from legal action for egregious human rights breaches. The UK has actively backed attempts made by other

nations to hold those responsible for crimes including genocide, war crimes, and crimes against humanity accountable. The UK stresses how crucial it is to uphold international law and observe the commitments and values set forth in international treaties.

United States of America (U.S)

The U.S. has actively pushed for the accountability of state officials for violations of human rights and supported legal frameworks to hold them accountable, such as the Alien Tort Statute (which serves as a statutory instrument for gaining universal jurisdiction over violations of international law). Its impact can be determined in the punishment of those who are accused of misusing their political immunity. The U.S. has traditionally taken a restrictive approach to state immunity, recognizing a limited form of immunity for acts performed in a public capacity but allowing exceptions for commercial or private acts. The notion of sovereign immunity, which shields states and their officials from the jurisdiction of other states' courts, is acknowledged in the United States. It recognizes that states must exercise their rights without unwarranted interference. It advocates for the premise that there should be exceptions in cases involving significant international crimes including genocide, war crimes, and crimes against humanity and that immunity should not be granted in all circumstances. It promotes the use of institutions like international criminal tribunals as a means of ensuring accountability and justice for these crimes. The United States understands the value of maintaining strong diplomatic ties and the necessity of diplomatic immunity to make diplomacy easier. The Vienna Convention on Diplomatic Relations (1961) and other pertinent international treaties' guiding principles are upheld.

International Criminal Court (ICC)

The ICC is an international tribunal established by the Rome Statute. Its primary mandate is to investigate and prosecute individuals responsible for the most serious crimes of international concern. The ICC has jurisdiction over individuals, regardless of their official capacity, and can hold them accountable for crimes such as genocide, war crimes, or crimes against humanity²⁶. The establishment of a legislative framework for the ICC and other international criminal tribunals connects with the question of political immunity. It emphasizes the necessity of precise policies and procedures to prevent the abuse of immunity claims as a means of avoiding responsibility for major crimes. To strike a balance between diplomatic privileges and responsibility, it may be necessary to establish an international legal framework on political immunity. This framework would clarify when and how immunity may be used in the case of significant crimes.

²⁶ The ICC <https://www.icc-cpi.int/>

International Law Commission (ILC)

The International Law Commission is a specialized body of the UN responsible for developing and simplifying international law. The ILC's draft texts can influence government practice and contribute to the formation of customary international law. When widely accepted and implemented, the ILC's work on immunity can contribute to the development of customary norms that reflect the evolving understanding and consensus of states. Its involvement ensures that the framework is well-grounded in legal principles and promotes clarity and consistency in addressing immunity-related issues.

TIMELINE OF EVENTS

DATE	DESCRIPTION OF EVENT
April 18, 1946	The Vienna Convention on Diplomatic Relations was adopted.
April 11, 1961	Vienna Convention on Diplomatic Relations was put into effect to encourage goodwill among nations.
December 14, 1973	The Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents, was adopted.
October 10, 1998	A number of judgments handed down by British and Spanish judicial authorities in the case of the former president of Chile, Augusto Pinochet
11 April 2000	The Arrest Warrant of 11 April 2000 case (Democratic Republic of the Congo v. Belgium) was brought before the International Court of Justice. The judgment was rendered in 2002.

December 22, 2004	The United Nations Convention on Jurisdictional Immunities of States and Their Property.
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RELEVANT UN RESOLUTIONS, TREATIES AND EVENTS

UN RESOLUTION 59/38 (2004)

This resolution that still applies to this day, highlights the importance of combating impunity for gross human rights violations, including extrajudicial executions, enforced disappearances, torture, and arbitrary detentions. It calls upon states to cooperate with international and regional mechanisms, investigate and prosecute those responsible, and ensure victims' access to justice. The impact of Resolution 59/38 lies in its reiteration and clarification of fundamental principles of state responsibility. It reinforces the accountability of states for their actions and omissions that breach international law. The resolution reaffirms the duty of states to respect and ensure respect for international law, to refrain from acts that may breach international obligations, and to provide reparations for any harm caused²⁷.

Protection Of Diplomats Convention

The Convention on the Protection of Diplomats, also known as the Vienna Convention on Diplomatic Relations, was drafted in 1961. It was formulated by the United Nations and was signed by numerous countries worldwide. The convention has had a profound effect on the issue of political immunity. It established a comprehensive framework for the treatment of diplomats and their immunity from legal jurisdiction in the host country. The convention stipulates that diplomats are entitled to certain privileges and immunities to ensure their effective functioning and to safeguard diplomatic relations between states. These immunities include the inviolability of the diplomat's person, the inviolability of their residence and communications, and exemption from criminal jurisdiction in the host country. The convention has played a crucial role in ensuring the safety and independence of diplomats and has contributed to the maintenance of stable and peaceful international relations²⁸.

²⁷ Resolution 59/38 (2004)

https://legal.un.org/ilc/texts/instruments/english/conventions/4_1_2004_resolution.pdf

²⁸ The Protection of Diplomats Convention (formally, the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents)

https://en.wikipedia.org/wiki/Protection_of_Diplomats_Convention

PREVIOUS ATTEMPTS TO SOLVE THE ISSUE

The United Nations Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973)

The United Nations General Assembly approved this treaty to give diplomats and other individuals with international protections further protection. Attacks against these people are made illegal, and rules pertaining to their immunity are included. The upkeep of regular international relations, which are vital for collaboration among States, is seriously threatened by crimes against diplomatic personnel and other individuals who are subject to international protection. Establishing effective measures for the prevention and prosecution of such crimes is the goal of the Convention on the Prevention and prosecution of Crimes against Internationally Protected Persons, including Diplomatic Agents (the Convention).

The International Law Commission's Draft Articles on Jurisdictional Immunities of States and Their Property (2011)

The Draft Articles on Jurisdictional Immunities of nations and Their Property (2011) by the International Law Commission are a group of articles that discuss the subject of jurisdictional immunities of nations and their property. The International Law Commission (ILC), a professional body within the United Nations, created these draft articles with the intention of codifying customary international law in this field. These proposed articles represent the ILC's interpretation of current state practice and *opinio juris*, even if they are not legally enforceable. The main provisions of the Draft Articles on Jurisdictional Immunities of States and Their Property contain concepts such as: the Scope of Immunity (Article 2), exceptions to Immunity (Article 5), property Immunity (Article 7), waiver of Immunity (Article 11), counterclaims (Article 14) and Human Rights and Humanitarian Law (Article 18). It is crucial to remember that they are draft articles and that for them to become legally binding, governments would need to agree through a procedure like the drafting of a treaty or the creation of customary international law. States continue to dispute and have different practices on the adoption and application of these articles.

POSSIBLE SOLUTIONS

International Cooperation

Increasing international collaboration among governments is one way to solve the problem of political immunity. This can be done by creating bilateral or multilateral agreements that place a high priority on holding high-ranking state leaders accountable for severe crimes they have committed. Collaboration in investigations, extradition procedures, and the sharing of data and proof are some of the main steps that need to be taken. States would need to actively participate in its execution, with oversight and coordination coming from international bodies like Interpol or the International Criminal Police Organization.

Clarification And Update of Already Existing Legal Provisions

Existing legal provisions regarding political immunity can sometimes be vague or open to interpretation. Clarification helps to eliminate ambiguities and provides a more precise understanding of the scope and limitations of political immunity. In order to ensure consistency and uniform understanding among states, it may be necessary to clarify the interpretation and application of current legislative requirements. This can be accomplished by creating rules, commentary, or case law that clearly explains the provisions, as well as their intended application and exclusions. For the purpose of creating a strong legal framework, it is essential to recognize any ambiguities or holes in the current regulations and resolve them. This may entail revising terms, definitions, or laws that could be subject to various interpretations and giving governments more precise instructions on how to implement the rules. It is crucial to update the legal system to address contemporary concerns. This involves taking into account recent problems like cybercrime, terrorism, international organized crime, and violations of human rights. By expanding the laws to address these issues, it is certain that anyone engaged in such activities won't be protected by political immunity.

ICC Jurisdiction

Another possibility is to bring crimes committed by high-ranking state officials inside the International Criminal Court's purview. Genocide, crimes against humanity, and war crimes are currently covered by the ICC. It would improve accountability and discourage future offenders if its authority was expanded to include actions taken while acting in an official capacity. The goal is to guarantee that no person is exempt from prosecution for severe international crimes, regardless of their political status. This approach would need to be put into practice with the assistance of ICC state parties, and the judges and prosecutors of the court would be in charge of monitoring its execution.

Enforcing Stricter Legislative Systems

A solution to address political immunity involves strengthening domestic legal systems to ensure they can effectively prosecute high-ranking state officials for serious crimes. This can be achieved through legal reforms, including the removal of immunity provisions for such individuals or the establishment of specialized courts to handle cases involving political figures. The aim is to promote the rule of law within each country and hold accountable those who abuse their positions of power.

Stricter legislative frameworks can create precise and thorough legal requirements for political immunity. This includes describing the boundaries, restrictions, and exclusions of immunity as well as the steps and prerequisites for asserting and waiving it. Establishing strong accountability measures to address situations when political immunity may be misused is one way to strengthen legislative institutions. To ensure fair and unbiased processes, this may entail establishing specialized domestic courts or tribunals with jurisdiction over significant crimes committed by political leaders or state officials. Stricter legal frameworks can give domestic courts the authority to bring criminal charges against those who break the law while enjoying political immunity. This may entail giving domestic courts the power to look into and prosecute these matters, even if the defendant has high-level political posts.

Civil Society Advocacy And Monitoring

Engaging civil society organizations and human rights defenders can play a crucial role in addressing political immunity. These groups can advocate for the rights of victims and promote accountability for serious crimes committed by high-ranking state officials. They can monitor and report on cases where immunity may be misused as a shield for impunity. The aim is to raise awareness, mobilize public support, and pressure governments to take action. The implementation of this solution would involve collaboration between civil society organizations, human rights bodies, and international NGOs, with monitoring and reporting conducted by these entities.

Raising Awareness About Political Immunity

Raising awareness about political immunity helps highlight the importance of holding state officials accountable for their actions. The concept, principles, and ramifications of political immunity are better understood by people and organizations when awareness is raised. This entails outlining its boundaries, restrictions, and exclusions as well as emphasizing how crucial it is to strike a balance between immunity and responsibility.

Raising people's knowledge of political immunity from a human rights viewpoint enables them to comprehend the ramifications for those who have experienced human rights violations. It can illuminate the need to make sure that legal immunity does not insulate people from being held accountable for egregious human rights breaches. Case studies and actual incidents can be used to demonstrate how political immunity affects justice, responsibility, and victims' rights. This can help comprehend the difficulties and intricacies associated with resolving political immunity on a global scale.

Engaging in advocacy work and public conversation to encourage discussions on the subject is part of raising awareness. By bringing together professionals, decision-makers, and civil society organizations for conferences, public lectures, seminars, and conferences, this can be accomplished. Raising awareness regarding political immunity can be greatly aided by cooperation with civil society organizations that deal with justice, accountability, and human rights problems. These groups can be extremely helpful in enlightening the populace, promoting reform, and pressing for the creation of a worldwide legal order.

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