

## Implication of Scope of International Derived Responsibility: Comparative Study of Responsibility of States and International Organizations

*Mahdi Haddady\**

*Mohamad Setayeshpur\*\**

Received Date: 10/01/2018 - Accepted Date: 05/08/2018

DOI: 10.22096/LAW.2019.78660.1205

### Abstract

Draft articles of International Law Commission (*hereinafter ILC*) on International Responsibility of States (2001) (ARSIWA) and International Organizations (2011) (ARIO) have considered responsibility for act of another party, called Derived Responsibility. Its scope is not clear enough, although being exclusive. In order to clarify the the scope of its application, the present article seeks to investigate the articles in the two said documents in connection with derived responsibility. Therefore, this will be dealt by comparative study of relevant articles in these two drafts. The comparative study of the two said drafts shows that, 'Aid or Assistance', 'Direction and Control', 'Coercion' and 'Circumvention' have been regarded as the for scenario in respect of international organizations and states, the both. In spite of the fact that the circumvention the international obligation has not been mentioned in arsiwa (2001), is also applicable to states. Derived responsibility in addition to the fundamental foundation of the law of international responsibility (ie derived responsibility), may lead to justice in the exercise of responsibility.

**Keywords:** International Responsibility; Derived Responsibility; Secondary Responsibility; Indirect Responsibility.

---

\* Associate Professor, Faculty of Law, University of Tehran, Farabi Branch, Qom, Iran.

Email: mhaddady@ut.ac.ir

\*\* Assistant Professor, Faculty of Law, Qom University, Qom, Iran.

Email: mohamadsetayeshpur@yahoo.com



## Bibliography

### A) Book & Articles

- Ahlborn, Christiane (2012). “The use of Analogies in Drafting the Articles on the Responsibility of International Organizations: An Appraisal of the ‘Copy-Paste Approach’”, *International Organizations Law Review*, Vol. 9, No. 1, pp. 53-66.
- Aust, Philipp (2011). *Complicity and the Law of State Responsibility*, England: Cambridge University Press.
- Blokker, Niels (2010). “Abuse of the Members: Questions Concerning Draft Article 16 of the Draft Articles on Responsibility of International Organizations”, *IOLR*, Vol. 7, No. 1, pp. 35-48.
- Crawford, James (2013). *State Responsibility: General Part*, Cambridge: Cambridge University Press.
- D’Aspremont, Jean (2007). “Abuse of the Legal Personality of International Organizations”, *International Organizations Law Review*, Issue 1, Vol. 4, pp. 91-115.
- Fry, James (2007). “Coercion, Causation, and the Fictional Elements of Indirect State Responsibility”, *Vanderbilt Journal of Transnational Law*, Vol. 40, No. 3, pp. 611-641.
- Fry, James (2014). *Attribution of Responsibility*, in Nollkaemper, A. and Plakokefalos, I. *Principles of Shared Responsibility in International Law: An Appraisal of the State of the Art*, Cambridge: Cambridge University Press.
- Graefrath, Bernhard (1996). “Complicity in the Law of International Responsibility”, *Revue beige de droit international*, Vol. 29, pp. 370-381.
- Lanovoy, Vladyslav (2014). *Complicity in an Internationally Wrongful Act*. in Nollkaemper, A. and Plakokefalos, I. *Principles of Shared Responsibility in International Law: An Appraisal of the State of the Art*, Cambridge: Cambridge University Press.
- Quigley, John (1986). “Complicity in International Law: A New Direction in the Law of State Responsibility”, *British Yearbook of International Law*, Issue 1, Vol. 57, pp. 77-131.
- Setayeshpur, Mohamad (2015). *Derived Responsibility in Law of International Responsibility (Revisiting ARSIWA (2001) and ARIO (2011))*, Thesis for the degree of Master of Arts, Tehran: University of Tehran, Faculty of Law. [In Persian]

- Setayeshpur, Mohammad & Mahdi Haddady (2017). "Scrutinizing the Necessity of Enunciating the Concept of "Derivative Responsibility" in Light of ILC Works", *Public Law Studies Quarterly*, Issue 3, Vol. 47, pp. 771-795. [In Persian]
- Talmon, Stefan (2008). «A Plurality of Responsible Actors: International Responsibility for Acts of the Coalition Provisional Authority in Iraq», in P. Shiner, and A. Williams, *The Iraq War and International Law*, Oxford: Hart Publishing.
- Zamani, Seyed Ghasem (2014). *The Law of International Organizations*, 2<sup>nd</sup> ed, Tehran: Shahre Danesh Institute of Law Research and Study. [In Persian]

**B) Documents**

- ECHR. Judgment, Application Number. 28761/11, 2014.
- ICJ. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), 2007.
- ILA. Report of the Seventy-First Conference, 2004.
- ILC. A/64/10, Report on The Work of its Sixty-First Session, 2009.
- ILC. Draft Articles on International Responsibility of States (ARSIWA), 2001.
- ILC. Draft Articles on Responsibility of International Organizations (ARIO), 2011.
- ILC. Yearbook, 1979.
- UNGA. A/71/80, 2016.
- UNGA. A/C.6/59/SR.22, 2004.
- UNGA. A/C.6/59/SR.22, 2004.
- UNGA. Report of the Secretary-General, A/71/80, 2016.
- UNSC. S/RES/929, 1994.

**C) Website**

- "The Foundations of the International Legal Order", D'Aspremont, Jean (2007). Available at: <https://brill.com/view/title/16996>.