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Title Violation of Treaties in Accordance
with International Principles

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Violation of Treaties in Accordance with International Principles

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Abstract

Treaties are written documents that are concluded among states or international organisations for a specific aim under international rules and principles. Each party has their own interests and aims in each treaty they sign, so this study elaborates the circumstances that terminate the international treaties, for instance mutual agreement of contracting parties, unilateral withdrawal by one party, termination of a treaty due to outbreak of armed conflict, desuetude (Obsolescence) of a treaty, conflict between successive treaties, emergence of a new peremptory norm.

The aim of this study is to clear the circumstances that breach the international treaties. Each occasion that terminates the international treaty is well discussed.

This study is important for all the states and international organizations, especially for those who are responsible for their foreign affairs, so this study will let them know all the ways and situations that abolish the treaty that have been in.

We have conducted this study library based, we have tried our best to use the well-known citation format, after all we have studied well enough regarding literature review and have mentioned them as well.

Finally, we have come up with the result that there are many occasions that put and end to an international treaty, like; mutual agreement, unilateral withdraw, armed conflict. At the same time some political, military, economic, social and cultural pressures and forces also can terminate international treaty.

Key words: *treaty, international treaty, termination, state, international organization.*

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Research problem:

Nowadays international treaties are signed among states and international organizations a lot, but to know the privileges and obligations of both parties; it's crucial to study this article because it solves the question that no party should ignore the rules and regulations that are set for international treaties, so this article answers this question that why international treaties are terminated sometimes, and under which circumstances?

Importance of the study:

Each and every research has its own importances, meanwhile the importance of this study is mentioned as below:

1. This research is important to all the states and international organizations, especially for those who are responsible for their foreign affairs.
2. This study lets the states and organizations know the circumstances that terminates the international treaties.
3. This study is importance, because it makes the parties to stop ignoring the rules and principles of international treaties.

Aim of the study:

Every article has its own aims; the aims of this study are as follow:

1. To understand the meaning of international treaties.
2. To elaborate the principles of international treaties.
3. To know the circumstances that terminates the international treaties.

Research questions:

1. What are the circumstances that path the way to termination of international treaties?
2. And, what are findings of a terminated treaty?

Research methodology:

This research is conducted via below method:

- 1- This research is library based.
- 2- After the collection of issues, research is divided into two parts, first is the definitions, and the second part is the situations that make the international treaty to be terminated.
- 3- While collecting the issue first hand materials and resources have been utilized, meanwhile sub resources are also utilized when needed.
- 4- In the research resources that are used have been written in footnotes.
- 5- All declarations have been explained in foot notes.

Literature review:

There have been many publications regarding international treaties, we have

mentioned some of them as below:

1. In 2004 Scott Davidson has published a book by the name of *The Law of Treaties*.

In his book he has discussed the principles of treaties in 75 pages; and mainly he has discussed that the Vienna Convention on the Law of Treaties, as in the Commission's previous draft conventions, it is not possible to separate the several provisions into one or the other categories, but a careful study will reveal which contains elements of "progressive development" and which "codification". Arbitration and conciliation are the procedures provided for, as the parties may agree in particular cases. It should be emphasized that the study is concerned only with the problems of invalidity of treaties, not of termination, suspension, denunciation of or withdrawal from, treaties. It is only for the sake of clarity that the general provisions relating to all have been disposed of together in the introductory remarks. All States having capacity to make treaties must provide in one form or another for the designation of the organ or organs and a definition of the limits of their powers in expressing the State's consent to be bound by a treaty.

As our article is regarding the termination of treaties, so he has only named the circumstances, but hasn't illustrate them, which is the main difference of our article with Mr. Davidson publication.

2. In 2020 (Klabbers , J 2020 , *The Validity and Invalidity of Treaties* . in D Hollis (ed.) , *The Oxford Guide to Treaties : Second Edition* . 2 edn , Oxford University Press , Oxford , pp. 545-567 . <https://doi.org/10.1093/law>)

They have pointed out the validity and invalidity about treaties, they have discussed the meaning of treaties, validity and invalidity, at the same time in this article the grounds of invalidity are also mentioned, but the termination of treaties are not discussed which is the clear difference of our research with this publication.

3. Beth Simmons on November 2009 has published an article under the title of *Treaty compliance and violation*, he has defined the treaty, and has pointed the Westphalia (1648) treaty, Paris (1814) treaty. Study on compliance with and violation of treaties has been a development industry within international relations subfield within the past decades. Space for seeing the relationship between rules and behavior unlocked as structural realism receded and a more strategic realism that is put up theories of self-enforcing agreements, signaling, and hands-tying came to take its value the most. Far from idealist, this study developed under the theory that much if not most treaty compliance could be

known in way of self-interested behavior, specifically understood. In the nonattendance of third-party enforcement, reciprocity was often the only way for sustained assistance in some issue areas, such as the laws of war. But what is become more specific is that treaties have made a crucial part to the ability of states to contract with one another: to make deals that are credible and follow rules that are relatively clear.

In this article he has only discussed the examples of heretofore treaties that were violated and terminated, but he hasn't discussed the termination circumstances well enough.

Introduction to international treaties:

Numerous scholarly writings and articles have been authored regarding international treaties. Broadly defined, an international treaty constitutes a formal agreement concluded between two or more subjects of international law, intended to produce binding legal effects under the framework of international law.

In this context, the term "treaty" refers specifically to an international agreement in written form, entered into by states or international legal persons, governed by international law. Such agreements may be embodied in a single instrument or in multiple related documents; the number of instruments is immaterial, provided that the legal requirements under international treaty law are fulfilled and the agreement reflects the mutual consent of the parties to be bound.¹

Definition of treaties in accordance with law

From a legal standpoint, a treaty is a written agreement concluded between subjects of international law, aiming to create specific legal effects in accordance with the norms of international law.

Certain legal scholars further clarify that a treaty is an agreement between states or other subjects of international law who possess the capacity to conclude treaties. The agreement must entail legal rights and obligations, and must address matters governed by international legal relations².

Literal Definition of Treaty

The term "treaty" is derived from the Arabic word "‘ahd" (عهد), signifying commitment or obligation. For instance, in the Holy Qur'an, Surah Al-An‘ām (6:152) says:

وَلَوْ كَانَ ذَا قُرْبَىٰ وَبِعَهْدِ اللَّهِ أَوْفُوا ذَلِكُمْ وَصَّاكُمْ بِهِ لَعَلَّكُمْ تَتَذَكَّرُونَ³

Translation: And the covenant of Allah fulfill. This has He instructed you that you may remember.

From a terminological perspective, numerous definitions of treaties exist; however, these definitions largely convey similar meanings, differing only in terminology.

Terminological Definition of Treaty

A treaty is a written legal document concluded between states or international organizations under the principles of international law, aimed at achieving specific objectives within a defined legal domain.⁴

Breach of Treaties

Treaties may be concentrated void or terminated due to numerous factors, including temporal and situational circumstances, changes in governments, political regimes, conflicts, errors, abuse, coercion, or contradiction with new legal developments. Below, we summarize the primary causes of treaty violations according to international legal norms:

Treaties termination under international law

Here are various steps that terminate treaties which are discussed as below:

1. Mutual Agreement of Contracting Parties

The mutual agreement of contracting parties can terminate a treaty through a process known as termination by mutual consent, and it is governed by Article 54 of the Vienna Convention on the Law of Treaties (1969). The following is a much clearer explanation:

Termination of a Treaty by Mutual Agreement

Definition: Termination by mutual agreement means that all parties to a treaty decide to end the treaty's legal force, either by:

1. Express consent (clearly stating in writing or through a formal act), or
2. Following a termination procedure already written in the treaty.

Let me discuss the legal Basis (Vienna Convention, Article 54):

A treaty may be terminated:

- (a) in conformity with the provisions of the treaty itself, or
- (b) at any time by consent of all the parties after consultation.

The Key Requirements for legal basis on Vienna convention, article 54:

1. All contracting parties must agree. Partial consent (from some states only) is not sufficient.
2. The agreement to terminate can be:
A new treaty or protocol that formally ends the previous one, or

An exchange of diplomatic notes or written instruments confirming the decision.

The following is the example:

The dissolution of the Warsaw Pact (1991): Ended by mutual agreement of its member states.

Some bilateral treaties (e.g., defense agreements) are terminated when both parties agree the arrangement is no longer needed.

Termination by mutual consent can occur through the following mechanisms: consensus of parties, fulfillment of contractual obligations, invocation of treaty clauses, expiration of the treaty term, or severance of diplomatic or consular relations.⁵

2. Unilateral Withdrawal by One Party

Treaties may be unilaterally terminated by one party, provided such termination aligns with provisions within the treaty. Recognized grounds include: a clear pre-existing condition in the treaty, fundamental breach of treaty provisions, force majeure, fundamental change of circumstances, or emergence of new states.

3. Termination of a Treaty Due to Outbreak of Armed Conflict

The outbreak of an armed conflict between states does not automatically terminate a treaty, but it may lead to suspension or termination, depending on several legal factors. International law approaches this issue with caution to maintain stability and legal continuity during wartime.

3. Key Points regarding Termination of a Treaty Due to Outbreak of Armed Conflict:

1. No Automatic Termination Rule

According to modern international law, an armed conflict does not in itself terminate or suspend treaties between the parties. Instead, each treaty must be examined in context.

ICRC's Guide (2001) and UK Manual on the Law of Armed Conflict (2004) reflect this principle.

Vienna Convention on the Law of Treaties (1969) does not specifically address armed conflict as a cause for termination, but customary international law and state practice guide the analysis.

Factors That Determine Termination or Suspension:

a) Nature of the Treaty

Political and military treaties (e.g., alliances, defense cooperation) are more likely to be terminated or suspended.

Humanitarian treaties (e.g., Geneva Conventions) or multilateral technical treaties (e.g., postal services, environmental treaties) are usually not affected.

b) Intent of the Parties

If it is clear that the treaty is no longer operable during conflict or if parties intend to terminate, the treaty may end.

c) Impossibility of Performance

If armed conflict makes it objectively impossible to perform treaty obligations, termination or suspension may be lawful (see Article 61 of the Vienna Convention – "supervening impossibility").

d) Breach or Fundamental Change of Circumstances

A serious breach due to conflict might give rise to lawful termination under Article 60 (material breach).

Or if the war causes a fundamental change in circumstances under Article 62, a party may invoke that as a ground for termination.

Judicial Interpretation & Practice:

The International Law Commission (ILC) has noted that each treaty must be assessed case by case, and many treaties survive armed conflict.

Courts and tribunals have shown unwillingness to assume that war mechanically destroys treaty obligations.

Armed conflict can outcome in the termination of political treaties, particularly those concerning peace or security⁶. For example, parts of the Afghanistan–United States Strategic Partnership Agreement ceased to have effect following armed conflict.

4. The Obsolescence of a Treaty

Treaties may become inapplicable due to the emergence of a new customary rule that overrides earlier agreements⁷. An example is the Holy Alliance of September 14, 1815, which was never formally repealed but was effectively superseded.

5. The Conflict Between Successive Treaties

When two treaties discuss the same subject matter and are inconsistent, the following rules apply:

Treaties based on peremptory norms (*jus cogens*) prevail.

Foundational treaties such as the United Nations Charter take precedence.

6. Appearance of a New Peremptory Norm

According to Article 64 of the 1969 Vienna Convention on the Law of Treaties, if a new peremptory norm of general international law emerges, any existing treaty conflicting with that norm becomes void and terminates⁸.

Abuse from treaties according to international rules

If a country's representative exceeds their authority, it may lead to the invalidation of the treaty. Article 47 of the Vienna Convention on the Law of Treaties clearly states:

"If a country's representative has limited powers regarding negotiations, but signs a treaty beyond those powers—and the other party is unaware of this limitation—then all concluded treaties between both parties are considered invalid."

If a state wishes to limit its representative's scope of authority, it must clearly inform the other party of these limitations before expressing consent to the treaty.⁹

Corruption and Misuse by State Representatives (Article 50)

According to Article 50 of the 1969 Vienna Convention on the Law of Treaties:

"If consent to be bound by a treaty has been obtained through corruption of a representative of a state, whether directly or indirectly, the other state may invoke this corruption as a ground to invalidate its consent."¹⁰

Explanation:

Based on the decision of the International Law Commission, the issue of corruption of a state representative is considered separately from fraud. Thus, the Vienna Convention provides a distinct provision for this in Article 50:

"If a state's obligation under a treaty is induced by bribery of its representative—directly or indirectly—by a member of the treaty, the affected state can use this corruption as a basis to annul its obligation or invalidate the treaty."

Error and Mistakes in International Treaties under International Law

Every treaty is based on certain information, which may be correct or mistaken.

According to Article 48 of the 1969 Vienna Convention:

"If a treaty is concluded based on incorrect information, such an error may lead to the invalidation of the treaty."

Mistaken information is often cited in territorial disputes. For example, if a country signs a treaty based on incorrect data and later discovers that the information was false, it can use the mistake as a basis to invalidate the treaty.

However:

- If it is proven that the claiming state itself caused the mistake, or
- It could have known about the error through reasonable means, then that state cannot use the mistake to invalidate the treaty.¹¹

Example 1: Customs Conflict Between France and Italy (1888–1898)

A clear example of economic tools used for political and security purposes: Between 1888 and 1898, a customs war erupted between France and Italy due to disagreements over tariff reductions. Italy refused to lower tariffs on French industrial imports, and France reciprocated. As a result:

- French exports to Italy fell by 50%
- Italian exports to France dropped by 30%

This led to mistrust and confusion between the two countries.

Example 2: The Amsterdam Treaty – 1997

In 1997, the European Union introduced a new post titled “High Representative for the Common Foreign and Security Policy” under the Amsterdam Treaty. In 1999, Javier Solana, former NATO Secretary-General and Spanish Foreign Minister, was appointed to the position during a summit in Cologne, Germany.¹² Some consider this treaty a major one, but mistakes or misinterpretations in some articles have led to violations, which negatively impact the security of the parties involved and some other countries.

Consequences of Mistake in International Treaties

If a mistake is discovered in a treaty after it has been signed, and it is substantial enough to change the essence of the agreement, the aggrieved party (or all parties) can declare the treaty invalid.

Example:

A contract is signed for the purchase of Japanese goods, but it later turns out that the goods were actually Iranian, mistakenly labeled as Japanese. This is a material error that affects the very nature of the agreement, making it null and void because the parties did not intend to contract for Iranian goods.¹³

Conclusion: If a treaty is based on mistake or error, and that error significantly alters the treaty’s nature, the result is that no valid treaty exists, and it is therefore invalid.

**Other Grounds for Treaty Invalidation Under International Law
Political Factors**

Political factors can significantly influence the validity and enforceability of treaties under international law. While treaties are primarily governed by legal principles—particularly those in the Vienna Convention on the Law of Treaties (1969)—political factors can undermine, delay, or even invalidate treaty

commitments in practice. Below is a structured explanation of how political factors can invalidate treaties under international principles:

1. Regime Change and Government Continuity

- Principle: Under international law, a change in government does not automatically nullify a treaty (Vienna Convention, Article 27 – internal law and observance of treaties).
- Political Impact: In reality, revolutions, coups, or regime changes may lead to a new government rejecting past treaty obligations, especially if they claim the treaties were:
 - Imposed under duress,
 - Not representative of the people,
 - Politically illegitimate.

Example: The Islamic Republic of Iran repudiated many agreements made by the Shah's regime after the 1979 revolution.

2. Lack of Political Will

- Principle: Treaties are binding upon the states that consent to them.
- Political Impact: A state may fail to implement or enforce a treaty due to shifting political priorities, domestic opposition, or pressure from interest groups—even if the treaty remains legally valid.

Example: The U.S. signed but never ratified the Kyoto Protocol due to political concerns about economic impact.

3. Coercion or Duress (Article 52, Vienna Convention)

- Principle: A treaty is void if it was concluded through the threat or use of force violating the UN Charter.
- Political Impact: If a treaty was signed under significant political or military pressure, the affected state may later claim invalidity.

Example: Treaties signed under colonial rule or military occupation can be challenged as coerced.

4. Ultra Vires Acts and Lack of Authority (Article 46)

- Principle: A treaty may be invalid if it was concluded by a representative without the proper authority, and this was manifest.
- Political Impact: Political miscalculations, such as unauthorized negotiations by leaders or diplomats, can later be grounds for invalidation.

5. Fraud or Corruption (Articles 49–50)

- Principle: A treaty may be invalid if a party's consent was obtained through fraud or corruption.

- Political Impact: If political elites were bribed or misled into treaty commitments, successor governments may repudiate the treaty.

Example: Allegations of corruption in treaty negotiations can lead to political efforts to have them declared void.

6. Conflict with Jus Cogens Norms (Article 53)

- Principle: A treaty is void if it conflicts with a peremptory norm of international law (jus cogens), such as prohibitions on genocide, slavery, or aggression.

- Political Impact: States may politically invoke jus cogens norms to invalidate treaties they view as contrary to fundamental principles, even if legal grounds are debated.

7. Withdrawal or Termination (Article 54–64)

- Principle: States may withdraw or terminate treaties based on provisions within the treaty, mutual consent, or fundamental changes of circumstances (rebus sic stantibus).

- Political Impact: Political shifts often drive decisions to exit treaties, citing changes in:

- Security concerns,
- Economic realities,
- Ideological alignment.

Example: The U.S. withdrawal from the Paris Climate Agreement under President Trump was politically motivated, though legally framed.

While legal principles guide the formation and validity of treaties, political factors such as regime change, coercion, corruption, and shifting national interests can lead states to challenge, withdraw from, or fail to honor treaties, sometimes with claims of legal justification under international law. These factors highlight the interplay between law and politics in the international system.

Economic Pressures

Economic pressures can deeply influence the operation, interpretation, or even the termination or invalidation of treaties, though under international law, economic hardship does not automatically nullify a treaty. However, there are legal doctrines and principles that allow economic pressures to serve as a basis for questioning or ending treaty obligations in certain circumstances.

Here's a structured breakdown of how economic pressures may lead to the invalidation (or termination) of treaties under international law:

Legal Framework: Vienna Convention on the Law of Treaties (1969)

International treaties are governed by the **Vienna Convention**, which sets out limited conditions under which treaties may be declared invalid or terminated. Economic pressures are not explicitly listed but can be **interpreted under certain doctrines**, especially:

- **Article 62:** *Fundamental Change of Circumstances (rebus sic stantibus)*
- **Article 61:** *Impossibility of Performance*
- **Article 54–56:** *Termination by consent or in accordance with treaty terms*

Key Ways Economic Pressures Affect Treaties:

1. Fundamental Change of Circumstances (Rebus Sic Stantibus – Article 62)

- **Principle:** If there is a fundamental, unforeseen change in circumstances that were essential to the consent of the parties, a state may invoke this to withdraw from or terminate a treaty.
- **Economic Pressure Application:** A severe economic crisis, such as a financial collapse or sanctions, may be claimed as such a change.
- **Limitations:**
 - The change must be unforeseen and radically transform the extent of obligations.
 - Cannot be used for boundary treaties.

Example: During sovereign debt crises, countries like Argentina or Greece have argued that economic collapse justifies suspension or renegotiation of certain international obligations.

Limitations and Risks

- **High Threshold:** International law sets a very high bar for invalidating treaties based on economic grounds.
- **Reputation Risk:** Using economic hardship as a pretext may damage a country's international credibility or lead to retaliation.
- **Dispute Settlement:** Many treaties include arbitration or judicial mechanisms that scrutinize claims of hardship or impossibility.

Military and Security Threats

Perceived threats to national security may prompt treaty violations under the pretext of self-defense.

Cultural and Social Conflicts

Cultural or religious incompatibilities may hinder treaty enforcement.

Legal Ambiguities

Vague or poorly defined treaty terms lead to divergent interpretations and potential breaches.

External Pressures

International sanctions or coercive diplomatic conditions may push states to disregard treaty obligations.

Shifting Internal or Global Conditions

Changes in national laws, global norms, or organizational policies can result in treaty non-compliance.

Lack of Mutual Trust

Distrust in the intentions or reliability of the other party often contributes to treaty breakdown.

Conclusion

1. This article discussed the key grounds for treaty violation.
2. Treaties—whether domestic or international—may be invalidated due to different reasons for instance; errors, coercion, abuse of power, emergence of new laws, mutual or unilateral decisions, warfare, or contradictions with other treaties.
3. Treaties signed under coercion, threat, or undue influence are legally void and lack binding force.
4. Consent of parties is essential; treaties concluded under duress are nullified.
5. political, military, economic, social and cultural pressures and forces can terminate an international treaty.

Recommendations

1. Treaties exploiting power irregularities or abusive practices should be declared null and void.
2. International treaties must support human rights, security, economic and political interests, and overall societal welfare to prevent violation.
3. The grounds for treaty invalidation should be thoroughly analyzed and interpreted in legal literature.
4. States must respect the UN Charter and ensure all treaty conditions—such as consent and capacity—are met.
5. Islamic jurisprudence and international legal principles should be incorporated in evaluating treaty violations.

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¹ Mohammad Mustafa Niazi. (2017) international treaties according to islamic jurisprudence and international principles, page 13.

² Ibid, page 14

³ Al-Quran, surah al Inam, verse number 152.

⁴ Mohammad Mustafa Niazi. (2017) international treaties according to islamic jurisprudence and international principles, page 13.

⁵ Raza Mosazada, translated by: Fazal Wali Sherani (2017) international treaty law, page 187

⁶ Ibid, page 234

⁷ Ibid, page 235

⁸ Ibid, page 235

⁹ Abdul Nasir Stanikzai. (2016) introduction to international contracts, page 136.

¹⁰ Vienna convention(1969) article 50.

¹¹ Abdul Nasir Stanikzai. (2016) introduction to international contracts, page 133.

¹² Raza Mosazada.(2017) international organization, page 209.

¹³ Obaidullah Akhondzada.(2016) common international law, page 65.