

of the newly independent and under-developed countries have questioned whether rules of state responsibility toward aliens can bind nations that have not consented to them and it is argued that the traditionally articulated standards governing expropriation of property reflect 'imperialist' interests and are inappropriate to the circumstances of emergent states."

Thus, the subject of state responsibility presents analogies to the Law of the Sea. In both cases, a number of countries insisted and continue to insist that the existing or traditional rules are inadequate and must be changed. In both cases, numerous attempts have been made over the years to reach international agreement on the rules concerned. At the Hague Codification Conference in 1930, a major but unsuccessful effort was made to draw up an agreed set of rules or code of behaviour for states in respect of the rights of aliens within their territorial jurisdiction. The subject was discussed in other bodies of the League of Nations. More recently, the problem has been examined from varying standpoints, in the United Nations Sixth Committee and Second Committee. The latter body has struggled for years with the question of permanent sovereignty over natural resources.

The International Law Commission has also dealt with the matter in one form or another almost since its inception. There has been evidence of a strong desire on the part of Communist states to move the subject away from the traditional body of rules relating to damage to aliens to one involving the more general nature of state-responsibility -- that is, the general principles underlying inter-state obligations, for example, to refrain from aggression. It remains to be seen to what extent the traditional rules relating to damage to aliens will find expression and be confirmed in the present work of the Commission.

At the present time, I believe that no clear consensus has emerged from these attempts at reformulation and progressive development. Whether these efforts will succeed, when they have failed in the past, remains to be seen. What I wish to underline, from the standpoint of my present inquiry, is that whatever does emerge in the future is bound to be based in large measure on fundamental principles which have not and should not be jettisoned. In this area, Canada, along with many other countries, sees considerable value in the older rules as providing a fair and just basis for adjusting the interests of the states concerned. Even the most recent practices of the Communist states, the principal denigrators of the concept of state responsibility for damage to aliens, and the principal protagonists for change, reflect the resilience and continuing utility of some of the traditional concepts.

The Soviet-bloc countries have on numerous occasions been persuaded, in spite of their doctrinal protests, that it is in their own interest to agree to a reasonable settlement of property claims and disputes. They have, in fact, behaved on occasion very much as if they considered themselves governed by what they might otherwise describe as outmoded and capitalistic concepts of property rights.