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PARTS 1 & 2

CONTENTS

Changing Role of the Judiciary in India	Sukhdev Singh Kang	1
Austria's Political and Legal System	Wilhelm Braunereder	5
The Crisis of Contradiction Between the Elite in Power and the Constitution in Print : Are Judicial Robes Mere Dope or Real Hope?	V.R. Krishna Iyer	15
Substantive Due Process And The Vicissitudes of Value Ordering : The Role of Inter Relationship Among Fundamental Rights for a Comfortable Result In America, Canada and India	P. Ishwara Bhat	37
Just Deserts : Sentencing Aim Premised On Justice: A Theoretical Analysis	S.V. Joga Rao	69
Contempt of Court As a Limitation On Individual's Freedom of Speech And Expression : A Study of Judicial Approach	K. Balasankaran Nair	79
The Effect of State Succession On the Membership of The United Nations : A Case Study of Yugoslavia	T.S.N. Sastry	103
Institutional Capability of Panchayat Raj Institutions - An Empirical Study	A. Sushrut Kumar	115
Child Labour : A Socio-Legal Study	P.P. Jayanthi	143
Article 14 in the Termination of Government Contracts	Arun P.N.	159
Law Delays and Litigation Crisis In India : Mechanics of Injustice	Ranbir Singh	169
Transparency in Governance- The Indian Law	Anupa V. Thapliyal	175
Due Process Analysis of Plea Bargaining	Chidaranda Reddy S. Patil	185

**THE EFFECT OF STATE SUCCESSION ON THE MEMBERSHIP OF THE
UNITED NATIONS: A CASE STUDY OF YUGOSLAVIA**

T.S.N. Sastry*

Introduction

The former Socialist Federal Republic of Yugoslavia consisted of six republics namely, Slovenia, Croatia, Serbia, Bosnia-Herzegovina, Montenegro and Macedonia. The crisis in Yugoslavia erupted around September 1990, when some of its member republics expressed their desire to opt out of the federation. All the steps taken by the Federal Government of Yugoslavia, the European community, the conference on Security and Cooperation (CSCE) to resolve the crisis and to preserve the stability of Yugoslavia became in vain.¹ Finally, four out of the six republics seceded from the federation leaving Serbia and Montenegro and declared their independence between the years of 1991-92. All the four republics were recognised by the European community, USA and by a number of nations during 1992-93.² The United Nations also admitted them as new members of the organizations³

The remaining two republics, Serbia and Montenegro, joining together formed as a joint State and declared it as the Federal Republic of Yugoslavia.⁴ Accordingly, Serbia and Montenegro claim that the break-up of former Yugoslavia constituted only as partial succession, and the new State is the successor of predecessor of Yugoslavia, and thereby entitled to succeed to all the rights and obligations of Yugoslavia including the membership in the United Nations.⁵ The United Nations refused to accept the stand taken by the new State of Yugoslavia stating that "the claim by the Federal Republic of Yugoslavia (Serbia and Montenegro) to continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations has not been generally accepted",⁶ and asked the new State to apply for the membership like a new State.

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1. Marc Weller "The International Response to the Dissolution of the Socialist Federal Republic of Yugoslavia" *1992) 86 *AJIL* 5669-577; Ranko Pet Kovic "Role of the European Community and the United Nations in solving the Yugoslav crisis" (1992) *Rev. of International Affairs*, 3.
 2. Marc Weller, *supra* n.1 at. 586-599; Paul R. Williams, "State Succession and the International Financial Institutions: Political Criteria v. Protection of out-standing financial obligations" (1993)43 *ICLQ*, 776, 779-80.
 3. *Keesing's Record of World Events*, Vol.38, (1992), pp.38, 70 et seq: 39033, 39036.
 4. *Serbia Montenegro Country Report on Human Rights Practices for 1992* (Feb 1993), p.897.
 5. Diplomatic Note No.8/1/92 to the US Dept. of State from the Embassy of the SFRY (FRY) cited in Paul R. Williams: *op.cit.*, at p.781, n.38.
 6. UNDOC S/RES/757, 30 May, 1992.

The State of Federal Republic of Yugoslavia refuses to apply for the membership and insists that it is entitled to succeed to the membership of the former Yugoslavia in accordance with the past practice of United Nations and principles of International law of state succession. However, the Security Council adopted a Resolution,⁷ which effectively eliminated the claim of FRY from participating in the United Nations as a successor of the former SFRY. The decision of the United Nations not to follow its earlier practice in recognizing the claim of the new State of Yugoslavia, as a successor of the former SFRY, clearly exposes the problems in built in this area even today. Further, the decision of the UN once again became a battle field for the scholars of the legal community and divergent views are aired on the subject.

In view of the acrimonious situation prevailing in respect of succession of membership to the international organizations upon the break of a State, this article aims to examine the problem under study taking into consideration of the principles of International law of State Succession and the past practice of the United Nations in brief, and tries to identify to what extent the decision of the UN is coherent. This article further tries to identify the dangers involved in the area and comes out with specific suggestions to overcome the problems in future.

International Law of Succession Pertaining of International Organisations and The Practice of the UN.

1. Succession pertaining to international organisations.

States are exposed to change. In whatever manner a change takes place in the internal form of a 'State', it will not affect the cactus of the 'Comity of nations', so long as the State retains its international identity. However, certain changes in the personality of a State do affect the identity and continuity of states as international persons.⁸ Although a transfer of sovereignty from one State to another do not take

7. Security Council Resolution 777, States in Part: "Recalling the State formerly known as the Socialist Federal Republic of Yugoslavia was ceased to exist, and realizing that the claim by the Federal Republic of Yugoslavia Serbia and Montenegro to continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations was not been generally accepted therefore recommends to the General Assembly that it decide that the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for membership in the United Nations and that it shall not participate in the work of the General Assembly. UNDOC. S/RES/777/1992.

8. L. Oppenheim, *International Law* Vol. I (9th ed. R. Jennings and A. Watts Eds: 1992) pp.204-07; Tinoco Concessions Arbitration, 1923, RIAA, Vol.I, p. 369; H. Kelsen, *Principles of International Law* (2nd ed. 1967) pp.383-85, J.L. Brierly, *The Law of Nations* (4th ed.) 1949, pp.134-835.

place frequently unlike the constant changes within a State, an examination of the politico-legal analysis, clearly specifies that the birth and death of the States in different period always account for the varied highly sensitive political contexts and ultimately leads to the emergence of new States.⁹ In whatever manner, a change takes place in the personality of a state, obviously it will affect the rubric of 'State succession'.

State succession means the juridical transmission of sovereignty along with some or all rights and duties over a given territory by a new State in the place of an old State.¹⁰ Under the general principles of international law, the issue of transfer of sovereignty from one State to another, generally, takes place in different types,¹¹ depending upon the political contexts. However, in general the birth and death of States can be broadly classified as either a 'continuation' or 'dissolution' depending upon the extent the legal personality of a State is affected.¹² In the case of the former, one or more sub-state entities breaks away from the main State and forms as independent State or States. This means the remaining part of the State is referred to as the "Predecessor State" or an "Old State" which normally, assumes the rights and obligations of the "Predecessor State". The break away States are referred to as 'new' States or successors. Whereas in the case of dissolution, the predecessor State dissolves into a number of successor States and none of them can be considered as a continuing or predecessor state. The new States are generally referred to as "Clean Slates" or "Successor States" which do not have any obligation to accept the treaty obligations governing state succession except those

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9. The birth of the Latin American States in the beginning of the Nineteenth Century, the Eastern European States after the First World War, the Emergence of the New States in Asia and Africa through the Phenomenon of Decolonization after the Second World War, the Unification of Germany, the dissolution of the USSR, Czechoslovakia and Yugoslavia in the 90's are the certain centrifugal changes that took place in the international arena.
10. Oppenheim, *supra* n.8 at 208; Ian Brownlie, *Principles of International Law* (4th edn, ELBS, 1990) p.654, D.P.O. Connell, *The Law of State Succession in International Law and Municipal Law* Vol.1 (1967).
11. The different types are (a) Cession (b) Conquest or annexation (c) Fusion with other states (d) Entry into a Federation (e) Dismemberment or partition and (f) Separation or Secession.
12. "There is a fundamental distinction between State continuity and State successions, that is to say, between cases where the "same" State can be said to continue to exist despite changes of Government, territory or population and cases where one state can be said to have replaced another with respect to certain territory". J. Crawford, *The Creation of States in International Law* (1979) p.400.

norms or conventions which had become part of the customary international law¹³

Whatever may be the mode and impact of these changes on the political and factual circumstances, in the language of law one thing is common among them, namely, that in both the cases a specific portion of territory passes from one sovereign State to another without any exception. This common feature is not only confined to the transfer of territory, but also extends to the substitution of legal rights and obligations between the 'predecessor' and the 'successor' State in 'fact' as well as in 'law'.¹⁴ It is here the problem of state succession assumes significance to deal with the jural relations (between the 'old' and 'new' States) that arise due to the transfer of sovereignty, which includes the relations with non-state entities.

Certainly, in respect to succession to the membership of international organizations, the rules with respect to the admission of new members are mainly governed by the relevant charters or constitutional provisions of the respective organizations, than the principles of the law of state succession. Hence, the norms governing acquisition of membership laid down in the provisions of the Charter of the United Nations and other rules relating to the admission of new members are paramount.¹⁵ Although, the law of state succession has a limited role in respect to succession of States to the membership of international organizations, still it plays a prominent role in distinguishing between old and new States (i.e. the identity and continuity of States in cases of State succession) in discharging their legal relations with other States and International Organizations. In fact, it is this distinction of identity and continuity of States which will help the international organizations in arriving at a conclusion upon the break-up of a State, whether there is any predecessor

13. The International Practice shows that the successor or the new states are not reluctant to accept the obligations of their predecessors. But due to the lack of no clear cut guide lines or norms on the law of state succession, most of the treaties cannot be applied automatically and without change, due to the change in the legal personality. Even if both the Vienna Conventions on State succession were in force and ratified by various States, the conventions would not be obligatory for new states as new subjects of international law. Of course, in the case of decolonisation the treaty obligations are devolved on the new States in accordance with devolutions agreements concluded between the predecessor and successor state are only a special case and cannot be considered as a general rule. Tein Mullerson, "The continuity USSR and Yugoslavia" (1993) 42, *ICLQ* 473-475, et seq. 484. O'Connell op. cit. Vol I pp.32-57. Vienna convention on Succession of states in Respect of Treaties 1978 AJIC Vol 72 p.971 Vienna Convention on succession of States in Respect of State Property, Archives and Debts, 1983 ILM Vol 22.

14. A.S. Hershey: "The succession of States", (1911) *AJIL*, 28-91 Mervyn Jones: "State Succession in the Matters of Treaties" *BYIL*, Vol XXIV 1947, p.360, Upendra Baxi, "Law of Treaties in the Contemporary Practice of India" *IYBIA*, Vol, E1VI, 1965pp.156-60. Okun Udokang: *Succession of New States to International Treaties* (1972) pp.107-112.

15. Art 4(1), Vienna Convention on Succession States in Respect of Treaties.

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sor State is in existence or not in respect to succession of membership to the international organizations. In accordance with the general principles of international law upon the break-up of a State, it is generally assumed that if a State is in existence it is considered as the continuing State and will succeed to the membership of its predecessor State automatically without any problem. The newly independent State or States have to undergo through the procedures prescribed in the relevant constitutions of the respective organizations to acquire membership.¹⁶ Whereas, on the otherhand, in the case of a dissolution of a State, there are no clear cut rules or practice is in existence as to which State may succeed to the membership of the international organizations.¹⁷ This is because not only due to the lack of proper norms of State succession, but also no clear cut precedent existed outside the area of decolonisation, whether the legal transfer of sovereignty constituted as a continuation or dissolution.¹⁸

2. Past Practice of the United Nations

The United Nations since its establishment in 1945 faced the issue of succession of membership from its members, which was due to succession of one or more of its constituent parts and its ensuing loss of territory and population on several occasions. In the series, the first issue that came up for the consideration of the UN was the independence and partition of British India in 1947. British India an original member of the organization became independent and was simultaneously partitioned into two states, namely India and Pakistan, the UN in resolving the issue acted upon the legal advice of the secretariat.¹⁹ The secretariat in response to that situation, in its opinion concluded that:

...from the point of view of international law, the situation is one in which a part of an existing state breaks off and became a new state. This had no effect on the international status of India, which continued to be a member of the United Nations. But the territory which breaks off, Pakistan, will be a new state: it will not have the treaty rights and obligations of the old State, and will not, of course, have the membership of the United Nations.²⁰

The United Nations subsequently applied the same view in respect to secession of membership of the United Nations, whenever an existing member of it breaks off into two or more parts,²¹ until the dissolution of the Union of Soviet

16. O'Connell, *State Succession in International Law and Municipal Law* Vol. II, (1967) pp. 183-90.

17. *Ibid* at pp. 197, 200.

18. Mc.Nair, *The Law of Treaties* (1986) pp. 640-654; Paul R. Williams, *op.cit.*, p. 784.

19. For a complete view on the problem: See the author's unpublished Ph.D thesis submitted to the Andhra University on State Succession and the Indian Courts: A Critical Study, 1995, pp. 75-92.

20. UN Press Release No. PM/473 (August 12, 1947); reprinted in YBILC, 1962, Vol II, p. 101, UNDOC A/CN.4/SER. A/962/Add.1.

21. The United Nations applied this methodology in the case of Syria/Pakistan/USSR etc., for a detailed discussion see O'Connell, *supra* n.16 at 188-211.

Socialist Republic of Russia in 1991.²² Among the various cases, the case of Syria can be quoted as a classic example. In this case, the United Nations has brushed aside the rules relating to acquisition of membership and allowed Syria to resume its membership without a fresh application after the secession of Syria from UAR.²³ Accordingly, it can be inferred that the stand taken by the UN in the case of Yugoslavia is not consistent with its earlier practice.

In view of the stand taken by the new FRY as a continuation of former SFRY and the divergent opinions aired on the decision of the UN, it is pertinent to analyze in brief, the political and legal issues involved in the problem, in order to find out whether, the dissolution of Yugoslavia constituted a universal or partial succession.

(a) *Universal Succession*

The European Community in their efforts to resolve the crisis in Yugoslavia appointed an Arbitration commission authorising it to address various issues connected with the dissolution of SFRY, including the most important question on the legal status of Yugoslavia. The commission in its opinion No.1, held that, "the Socialist Federal Republic of Yugoslavia is in the process of dissolution", and "it is upto those republics that so wish to work together to form a new association endowed with the democratic institutions of their choice".²⁴

The Belgrade authorities (Serbia and Montenegro) totally rejected the opinion of the Commission and said that it is a successor State of the SFRY. In order to clarify further on the legal status of SFRY, Lord Carrington, who was then chairing the Peace Conference on Yugoslavia has asked the Commission with a new set of questions relating to the legal consequences of the dissolution of Yugoslavia.²⁵ The Commission in its continuous opinions made it clear that the process of the dissolution of SFRY is complete and that the SFRY no longer exists.

The Commission further answering on the question of succession and the status of FRY held that, "new States have been created on the territory of former SFRY and replaced it. All are successor States to SFRY", hence "the State of FRY

22. UNDOC.1991/Russia, December 24.

23. In the year 1958 Syria merged with Egypt and formed as United Arab Republic. After the formation of UAR it had declared that the union continues as a single member of the United Nations. However, in the year 1961 Syria seceded from the UAR and resumed its membership in the United Nations without going through the procedure of admission. In this case neither the membership of UAR nor that of Syria's had been affected after the dissolution of the Union. See Richard Young, "The State of Syria: Old or New" (1962) *AJIL*, 482 also see the UNDOC.A/4914; A/CN.4/149, 1961, p.10.

24. Conference for peace in Yugoslavia. Arbitration commission No.1 reprinted in *ILM* Vol 31, 1992 p.1494 at 1497.

25. *Id* at 1518-19.

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26. *Id* at 1521.
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30. Keening's
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(Serbia and Montenegro) in the new State which cannot be considered as sole successor of SFRY.²⁶

The Government of FRY emphatically denied the opinions expressed by the Commission and requested the United Nations to allow her to occupy the seat of SFRY as a successor to it. As stated already, the Security Council opined that FRY cannot be considered as a successor of SFRY and asked to apply for the membership of the United Nations as a new State. The decision of the Security Council was endorsed by the General Assembly.²⁷

A section of scholars²⁸ taking into consideration of the opinions of the Arbitration Commission and the views expressed by the UN argue that the dissolution of SFRY is a clear cut case of dissolution in the history of the United Nations, hence FRY cannot claim to be successor of SFRY. They further contend that the sanctions imposed on the rump Yugoslavia by the Security Council, clearly specifies that the claim by FRY to be declared as a successor of former Yugoslavia, in no way complies with Article 4(1) of the Charter of the United Nations.

Even the US Mission to the UN in its press note also made it clear that it is unfortunate in the history of the UN, for the first time a member State is facing a dissolution without any successor. It was further held that had there been any agreement entered by the successor States to confirm the status of former SFRY, it would have become easy for us to accept the claim of the new FRY. The note further add that since none of the successors of the former Republic are not holding a predominant portion of territory or population, which is an essential requirement to recognize a State as a successor from the past practice of the United Nations.²⁹

(b) *Partial Succession*

As stated already, FRY claims as a successor State of former SFRY, on the basis that since it is the only State which has held 40% of the territory and 45% of the population of the former SFRY and agreed to discharge all the treaty rights and obligation,³⁰ it should be considered as a continuation of the former SFRY in accordance with the Customary principles of international law and the past practice of the United Nations.

26. *Id.* at 1521 et seq 1523, 24, 25, 26.

27. GA Resolution 47/1, September 22, 1992.

28. Vladenier-Divro Degan; OVE.E. Bring and M. Kelly Melone correspondents' Agra UN Membership of the former Yugoslavia, AJIL Vol 87 1993 pp.240-48.

29. US UN 83-(92) cited in Paul R. Williams; *op.cit.*, p.785, n.58.

30. Keating's Record of World Events, *supra* n3, at 130; also see Rein Mullerson, *op.cit.*, pp.489-92 Vasilav Jovanovic: "On the Continuity and Discontinuity of Yugoslavia: Review of International Affairs, Vol. XLIII, 1992, 14-15.

Professor Blum and other scholars³¹ argue that the dissolution of Yugoslavia constituted only as a secession and cannot be considered as dismemberment. Blum, in his stark criticism on the decision of the United Nations, opines that:

...to deny the Belgrade authorities the right to occupy the seat of Yugoslavia at the United Nations, however reprehensible their policies seem to some or even the overwhelming majority of the organization's members.³²

Blum further contends that the resolution 47/1,³³ of the General Assembly has neither terminated nor suspended the membership of Yugoslavia from the United Nations. Hence, it is illogical to suggest to such a State to apply for the membership of the organization as a new member as was asked by both the primary organs of the organization.³⁴

Marc Weller contends that the whole Yugoslavian issue was used as a political tool for the interests of some of the members of the European Community. In fact, even in the recognition of the other republics, the criteria used was radically different from the customary principles of international law of recognition,³⁵ clearly specifies the political intentions of the European Community. He further argues that legally both the entities (Serbia and Montenegro) had fulfilled all the requirements of State hood, and in the absence of recognition, the claim perceived by FRY as a successor State by all means confirms its claim.³⁶

Further retaining the Flag at the compound of the Headquarters of the UN and the name plate of Yugoslavia in the General Assembly along with other members confirms the stand taken by FRY beyond any doubt. In fact, this point of view was even emphasized by the Permanent Representatives of Russia and China at the time of the adoption of the Resolution 777 by the Security Council.³⁷ This position can be further substantiated by the legal opinion rendered by the UN Legal Council that "the only practical consequence that the (General Assembly's) resolution (47/1) draws is that the Federal Republic of Yugoslavia (Serbia and Montenegro) shall not

31. Yehuda Z. Blum, "UN Membership of the 'New' Yugoslavia: Continuity or Break" (1992) 86 *AJIL* 830; Marc Weller, *op.cit.*, pp.603-7. Rein Mullerson: *op.cit.*, p.486 et seq. 499-500; Paul R. Williams, *op.cit.*, at p.807.

32. Blum, *id.* at 833.

33. Un.DOC A/47/474, September 25, 1992.

34. Blum, *supra* n.31 at 251.

35. For the customary criteria on Recognition see Ian Brownlie, *op.cit.* pp.72-79.

36. Marc Weller, *op.cit.*, pp.603-607.

37. See the Statement of the Representatives of Russia and China, Un DOC, S/PV.3116, 1992 at p.4 et seq.14.

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participate in the work of the General Assembly...the resolution neither terminates nor suspends Yugoslavia's membership in the organization".³⁸

Critical Appraisal of the Problem

From the above discussion, it can be inferred that the issue of Yugoslavia has not been handled properly from the beginning. The United Nations instead of providing a solution to the problem, left in a haphazard fashion by taking a compromising stand between the conflicting interests of some of the member States and the legal principles. From the point of view of the customary principles of international law of State succession and the past practice of the United Nations it is crystal clear that new Yugoslavia is the successor of the former SFRY by all means. Hence, whatever may be the political motives and considerations of the member States finds no support either from the point of view of international law or from the practice of the international institutions.

The stand taken by the rump Yugoslavia (Serbia and Montenegro) might be supported from the interim orders of the International Court of Justice of 8th April 1993, 13 September 1993,³⁹ in the case filed by Bosnia-Herzegovina against the present State of Yugoslavia. The Court in its interim orders held that the convention on the prevention and punishment of the crime of Genocide of 1948, provided a prima facie basis for its jurisdiction to indicate provisional measures on Yugoslavia, since SFRY was a party to the Convention. Even in accordance with the rules of the international human rights law and the principles of self-determination, the rump Yugoslavia has every right to resume the membership of SFRY in exercise of its inherent power of sovereignty.

Further, with regard to succession of membership of the United Nations, the general legal position is that upon the break-up of an existing member of the organization, the continuing State if it exists to continue it will retain the membership of the former State irrespective of the constitutional and territorial changes if its international identity is preserved.⁴⁰ This means the new Successor State or States have to apply for the membership of the United Nations in accordance with the provisions of the Charter. Since its establishment, this position was firmly established and adopted by the United Nations on various occasions.⁴¹ However, at

38. UN.DOC. S/47/485, Annex, September 30, 1992 (The emphasis added here is the original of the text).

39. Communique of the Secretariat of the ICJ No.93/28, bis, 13 September 1993.

40. Oscar Schachter "The Development of International Law through the Legal Opinions of the UN Secretariat" BYIL, Vol. XXV, 1948, p.91 et seq. 101-108.

41. This view was first adopted at the time of the admission of Pakistan in 1947, followed by the separation of Singapore from Malaysia in 1965, Separation of Bangladesh from Pakistan in 1971 and more recently this view was adopted in the case of Russia after the disintegration USSR in 1992.

times an important question such as this has been subordinated to the political considerations than to apply the well established legal criteria.⁴² This has resulted in an anachronistic situation in deciding the case of Yugoslavia.

Although the issue of Yugoslavia is generally considered by the organization that the former Yugoslavia has ceased to exist and none of the successor States are eligible to claim for the automatic continuation or its membership, from the statements made by some of the members in the Security Council,⁴³ the General Assembly,⁴⁴ the Resolution adopted by the General Assembly,⁴⁵ and the UN Legal Counsel's opinion⁴⁶ makes it clear that the issue is still legally outstanding before the United Nations. Moreover, the statement made by the United States Mission in the UN⁴⁷ that the membership with respect to the successor of the former Yugoslavia, would have been resolved, if there had been a devolution agreement entered between the successor States specifying the successor over whom the membership to be conferred upon is apparently contrary to the principles of the Charter of the United Nations. Nevertheless, even if it is a valid document from the past practices of the UN, it is still doubtful to what extent the validity of such an agreement would have been considered in the perplexing niceties of political equations. For example, in the case of Czechoslovakia despite the entry of a Devolution Agreement⁴⁸ between the Czech Republic and Slovakia upon the dissolution of the Federal Republic of Czechoslovakia in 1993, neither of them were considered as the continuing personality of the former Czechoslovakia and both of them were admitted as new members of the organization.⁴⁹ Hence it is submitted that, as was rightly pointed by Prof. Blum,⁵⁰ the UN should interpret the provisions of the charter and rules framed thereunder in the right spirit, and should reconsider its decision in accordance with the

42. The legal criteria was brushed aside when the Union of the United Arab Republic was dissolved in 1961, Syria resumed its seat. Tanganyika continued its membership after the formation of the United Republic of Tanzania in 1964 with merger of Zanzibar. The anomaly is so evident when Indonesia resumed its seat a few years later with little or no discussion, after its voluntary withdrawal from the organization. Even in the case of Russia it has been allowed to continue as an original member including the permanent membership in the Security Council, though the Alma-Ata Declaration of December 21, 1991, made it clear that with the establishment of the Commonwealth of Independent States (CIS) the Union of Soviet Socialist Republic ceased to exist". For the text of the Declaration See ILM, Vol.31, 1992, pp.148-49.

43. See for the Statements of Russia, India, Zimbabwe, China UN DOC, S/PU 3116, 1992 at pp.3, 7-9, 14.

44. For the statements of Ghana, Kenya, Zambia, Tranzania Mexia Brazil, Jamaica and Guayana UN DOC A/47/PU.7, 1992 p.158 et seq 166, 172, 177, 180, 190, 193, 194.

45. UNDOC A/47/474, September 25, 1992.

46. UNDOC A/47/485, Annex September 30, 1992.

47. *Supra* n. 29.

48. *Keesings Record of World Events* Vol.39 (1993) p.3981, also see UNDOC A/47/774,(31 December, 1992).

49. *Journal of the UN* No.13 1993 (part I) 20, January, 1993.

50. Blum, *supra* n.31 at 251.

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legal provisions and the past practice than to resort to the political considerations of few of its member states.

Conclusion

The above analysis, clearly establishes that the problems connected to succession of States to international organizations are no more resolved completely even today. Though the practice of the United Nations and some of its constituent organizations appears to be settled in the event of change of sovereignty of an existing member the way they handled the problem of Yugoslavia (to a certain extent Czechoslovakia too) proves the point beyond any doubt that there is no uniform practice or principle existed. *The way the Yugoslavian crisis has been handled* reveals that the international organizations are also not above the politics of power. This is rather an unfortunate situation that the international organizations are also willing to discharge their duties then to strictly adhere to the well founded principles of international law and past practice and in accordance with their respective constitutional arrangements.

This type of political compromises by the UN over the established legal norms in deciding a crucial question of succession of membership by one of its continuing members may prove to be a set back on the system on which the whole community of nations as well as the mankind reposed their confidence. In order to overcome this type of obstacles and for the effective functioning of the system in future, there is a need for codification of the law with respect to the problem of succession to international organizations. In this connection, it is to be remembered that the International Law Commission already identified the area for codification along with the problem of state succession. However, the Commission felt that the Vienna Convention on the Law of Treaties, 1969, the Vienna Convention on succession of States in Respect of Treaties 1978, and the existing provisions of the constitutions of the various organizations and the charter of the UN may fill the need of the states and left the issue for further consideration.⁵¹ But, the problems are not yet settled as felt by the Commission and may recur even in future. In order to eliminate the problems in the rubric, the General Assembly is required immediately to request the International Law Commission to codify the area taking into consideration of the past practices of the UN, the principles of International Law of State Succession and the constitutions of the organizations to formulate a comprehensive law. Such a comprehensive law shall not only eliminate the political motivations of the States, but also lends support for the effective functioning of the United Nations and its other organs to serve the shared ideals, practical needs of the member States in a more democratic and congenial atmosphere.

51. YBILC Vol II, 1962, p.101, *ibid*, 1968, Vol.III, p.1 *ibid*, 1969, Vol.II, p.23.