

AN ANALYSIS OF DEVELOPMENTS AND IMPLICATIONS UNDER INTERNATIONAL LAW

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Recently, a US civil court issued a summon to National Security Advisor Ajit Doval in a case relating to an alleged murder plot against Sikh separatist Gurpatwant Singh Pannun. This issue came to prominence in recent times when Mr Pannun alleged that RAW is attempting to Murder him due to his dissent against India. This [...]



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The origin of this can be traced to Jurisdiction Of International Law. State can apply jurisdiction in Five Principal Ways. They are Territorial, Nationality Principle, Passive Personality, Protective And Universal Principle of jurisdiction. The territorial principle is associated with the concept of boundaries of the state. The state has exclusive

jurisdiction within the territories of the country. The other four are associated with the power of the states to exercise extra territorial jurisdiction in International Law. The nationality principle can be applied by a state when the accused of a crime is the national of the country. International Court of Justice in *Nottebohm Case* explained the principle of nationality in international law. Secondly, the Passive Personality Or Passive Nationality Principle can be exercised by the state, when the victim is from the country even though the incident happened outside the territory of the country. International Court of Justice in *Tehran Case* And *Locherer Case* have used this principle to justify jurisdiction. The fourth is the protective principle of international law can be applicable when, the country Can Exercise Jurisdiction In case their security and asset is under threat Or Damaged outside their Country. Similarly in the *Lockerbie case* , ICJ used this principle to justify the jurisdiction of states. The last principle is the universal jurisdiction of international law. This principle is comparatively new addition in the international law, where court can exercise jurisdiction even if there is no *Locus Standi*. In simple words, the principle of universal jurisdiction recognises the jurisdiction of the state over persons and conduct notwithstanding the absence of factors connecting the state with the act concerned. To illustrate, in the *Eichmann Case*, the universal jurisdiction is used to justify the trial of Mr Eichmann before the district court of Israel. This fifth type of jurisdiction brought a lot of debate over international law as seen in the ongoing issue of summons by the US civil court.

Within the realm of Universal jurisdiction, exists the universal civil jurisdiction which has been exercised by the US court in issuing the summons even though the principle of universal civil jurisdiction finds no place in any treaty or formal international legal instrument. In the current case, The American Alien Torts Act has been applied that allows American courts to exercise civil jurisdiction over claims alleging violations of International law brought by aliens.

From a comparative perspective, the case of *Nait Laiiman v.s Switzerland* provides a nuanced understanding of the principle of universal jurisdiction wherein a denial of municipal jurisdiction was being contested before the European Court of Human Rights (ECtHR). The case involved allegations of torture committed outside of the state of Switzerland which denied hearing the case due to the absence of any link with Switzerland. The applicant was a Tunisian national and was allegedly tortured in Tunisia after being arrested from Italy which according to the applicant violated Article 6 of the European Convention on Human Rights that deals with the Right to a fair trial. However, the ECtHR held that there was no violation of Article 6 in this case.

In this context, the application of universal civil jurisdiction, as demonstrated in the U.S. summons to *Ajit Doval*, raises critical questions about the intersection of national sovereignty, international human rights, and the role of domestic courts in enforcing international norms. The absence of a formal treaty or convention governing universal civil jurisdiction leaves its application largely to the discretion of national courts, which can result in inconsistencies across jurisdictions.

Moreover, the use of universal civil jurisdiction can strain diplomatic relations between states, especially when it involves high-ranking officials or sensitive political issues. In this case, India's strong objections to the summons issued by the U.S. court highlight the potential for conflict when national courts assert extraterritorial jurisdiction over foreign

officials.

Going forward, the exercise of universal civil jurisdiction, though relatively uncommon, represents a growing trend in international law, particularly in the context of human rights violations and international crimes. The U.S. court's summons to Ajit Doval in connection with an alleged murder plot against Gurpatwant Singh Pannun has brought renewed attention to the scope and legitimacy of this legal doctrine.

As states continue to navigate the complex interplay between national sovereignty and international legal obligations, the principles underpinning universal jurisdiction will likely remain a topic of debate. Further clarification from international legal bodies and treaties may be necessary to ensure a more consistent and balanced application of this contentious principle.

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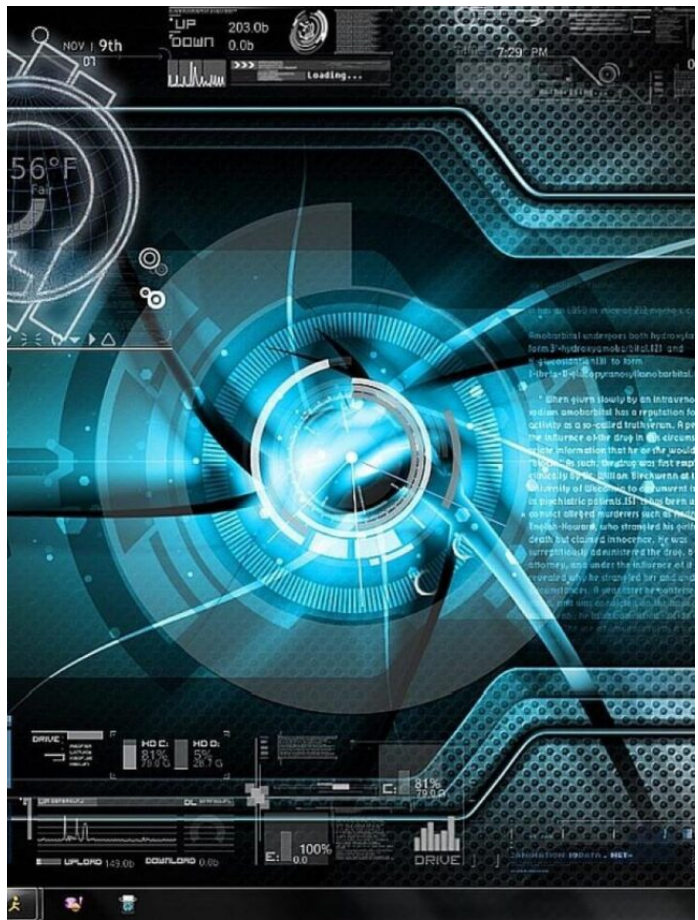
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