

Examining Singapore's State Responsibility in International Law Perspective for the Death of David Hartanto: A Case Study of an Indonesian Citizen in Singapore's Territorial Territory

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Abstract

This paper delves into the complex legal and ethical dimensions surrounding the death of David Hartanto, an Indonesian citizen, within the territorial boundaries of Singapore. Hartanto's tragic demise sparked significant attention and debate, raising questions about Singapore's obligations under international law regarding the protection of foreign nationals within its jurisdiction. Drawing upon legal principles, case law, and relevant international agreements, this study scrutinizes Singapore's state responsibility concerning the death of Hartanto. It analyzes the circumstances leading to his demise, investigates potential breaches of legal



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obligations by Singaporean authorities, and evaluates the adequacy of the legal frameworks governing the protection of foreign nationals. Moreover, the paper explores the broader implications of this case for diplomatic relations, human rights protections, and the rule of law in the context of transnational incidents involving state responsibility. By critically examining the Hartanto case, this paper contributes to the ongoing discourse on the intersection of state sovereignty, human rights, and international legal obligations, offering insights into avenues for enhancing accountability and ensuring the protection of individuals irrespective of their nationality within a state's territorial jurisdiction.

KEYWORDS *State Responsibility, David Hartanto Murder Case, Citizen Protection, International Law*

Introduction

The death of David Hartanto, an Indonesian citizen, while in Singapore's territorial territory, raises critical questions about state responsibility under international law. This tragic incident underscores the complexities and challenges inherent in addressing transnational issues that involve the rights and safety of individuals within a state's jurisdictional boundaries. As such, examining this case through an international law lens is essential to understand the legal principles and obligations that govern state conduct in such circumstances.¹

One of the fundamental principles of international law is state responsibility, which delineates the duties and liabilities of states for their

¹ See Imanuel Harpha Deipha, "State Responsibility Singapura Terhadap Kasus Meninggal Dunianya Warga Negara Indonesia Yang Berada di Wilayah Teritorial Negara Singapura Ketika Terjadi Denial of Justice (Studi Kasus Meninggal Dunianya David Hartanto)". *Thesis*. (Yogyakarta: Universitas Atma Jaya Yogyakarta, 2010); Lius Carlos Barus, "Perlindungan Terhadap Terhadap Warga Negara Indonesia di Luar Negeri dalam Kasus Tewasnya David Hartanto Widjaja Ditinjau dari Piagam ASEAN dan Semangat ASEAN". *Thesis* (Jakarta: Universitas Pelita Harapan, 2014).

actions or omissions that result in harm to individuals or other states.² In the case of David Hartanto, Singapore's state responsibility comes into focus regarding its duty to ensure the protection and safety of all individuals within its territory, regardless of their nationality. This duty is rooted in customary international law and various human rights instruments, which recognize the inherent dignity and inviolable rights of every individual.³

Moreover, Singapore's obligations under international law extend beyond mere territorial sovereignty to encompass broader principles of due diligence and accountability. As a member of the international community, Singapore is bound by treaties, conventions, and customary norms that impose legal duties to prevent harm, investigate alleged violations, and provide remedies to victims. Therefore, any failure on the part of Singapore to fulfill these obligations may give rise to claims of state responsibility under international law.⁴

Important Chronological Events in the David Hartanto Case: Examining Key Milestones and Developments

Indonesian married couple Hartono Wijaya and his wife Lie Khiun lost their beloved son David Hartanto Wijaya (22 years old) who died in Singapore on March 2, 2009. The son of the couple is known to be

² André Nollkaemper, and Dov Jacobs. "Shared Responsibility in International Law: A Conceptual Framework." *Michigan Journal of International Law* 34, no. 2 (2012): 359-438; Azzam. "The duty of third states to implement and enforce international humanitarian law." *Nordic Journal of International Law* 66, no. 1 (1997): 55-75.

³ Luke Glanville, "The responsibility to protect beyond borders." *Human Rights Law Review* 12, no. 1 (2012): 1-32. See also Theodor Meron, "State responsibility for violations of human Rights." *Proceedings of the Annual Meeting (American Society of International Law)*. Vol. 83. American Society of International Law, 1989.

⁴ See Erwida Maulia, "Singaporean court rules David committed suicide", *The Jakarta Post*, July 30, 2009. Retrieved from <https://www.thejakartapost.com/news/2009/07/30/singaporean-court-rules-david-committed-suicide.html>. See also Adi P. Simamora, "Family plans to bring case to int'l court", *The Jakarta Post*, July 31, 2009. Retrieved from <https://www.thejakartapost.com/news/2009/07/31/family-plans-bring-case-int039l-court.html>.

studying at Nanyang Technological University, NTU (Nanyang Technological University) Singapore. David was found lying with a number of wounds all over his body. The incident occurred on his campus, the local authorities stated that David died by suicide after he plunged from the sixth floor. The incident was carried out after a fight with one of his teachers, Professor Chan Kap Luk.

At first, the victim's father initially resigned himself to accepting the harsh reality. However, after her arrival in Singapore, she felt many irregularities surrounding her son's death. When visiting the crime scene, the location seems to have been cleaned without a police line. This is the beginning of his suspicion, why the place where the crime occurred seemed to be in a hurry to be cleaned. Then there are many more irregularities found by the victim's family such as David was declared dead due to cutting the veins of his hands, but this raises many puzzles because there are many stab marks and incisions found on his body.

Based on the testimony of Faculty of Medicine, University of Indonesia Forensic Pathologists, Dr. Djaya Surya Atmadja and Dr. Evi Untoro stated that it was impossible for David to commit suicide because David's fingers were full of sharp object incision wounds which indicated that the wound was a wound that depicted a sharp object fending wound. It was explained again that it was impossible for people to commit suicide but there were many incision wounds found all over their bodies. David Hartanto Wijaya is an eighth semester student majoring in Electrical and Electronic Engineering. David's death is full of mystery because the campus and local government are considered very secretive. Starting with the family is only allowed to see the body of the victim only on the face and neck and not allowed to see other parts of the body. And the campus instructed the party that David's body be immediately cremated. The cause of death is still a question and rumor. Because the Singapore government seems closed regarding the cause of David's death.⁵

⁵ See KOMPAS, "Ahli Forensik Yakin David Tidak Bunuh Diri", *KOMPAS*, August 3, 2009. Retrieved from <https://properti.kompas.com/read/2009/08/03/17365186/Ahli.Forensik.Yakin.David.Tidak.Bunuh.Diri>. See also HukumOnline, "Coroner Court Menyatakan David Hartanto Bunuh Diri", *HukumOnline*, July 29, 2009. Available at <https://www.hukumonline.com/berita/a/icoroner-court-menyatakan-david->

The Legal Issues in the Case

With the results of an explanation of the chronology of death cases and irregularities as well as the condition of the victims and the conditions of the campus and local government regarding the truth of the cause of David's death. So it raises many questions, especially related to legal issues in the case, namely about whether Singapore can be held accountable in the case of David Hertanto based on academic studies. And if the locus delicti is in Nanyang Technological University (NTU), then Singapore

hartanto-bunuh-diri-hol22719/. Furthermore, KontraS (Commission for Missing Persons and Victims of Violence) Indonesia highlighted that the coroner's court in Singapore recently ruled David Hartanto's death as suicide, leaving his family questioning the verdict. Since the outset, discrepancies surrounding David's death have raised suspicions, with his family believing he was murdered rather than having taken his own life. Contrastingly, strong support is evident for the family's quest for justice over David's demise. They have the right to seek truth regarding David's fate, as access to justice should not be confined by territorial boundaries. It's every individual's right to utilize available mechanisms, be it at national, regional, or international levels. The Indonesian government should address this matter seriously, considering it's not the first incident involving Indonesian nationals abroad. Despite numerous deaths of Indonesians overseas each year, there has been minimal effort by the Indonesian government to actively protect its citizens' interests abroad. The coroner's court proceedings are lamented for lacking sufficient legal cooperation with the Indonesian government. Ideally, both governments could collaborate to establish an independent and impartial team involving forensic experts and legal professionals from both nations. Although family consent is not required for examinations during the coroner's court, they could be included in the process. However, transparency and access to generated reports were not afforded to the family. Expert analyses from medical and legal professionals from Indonesia should be considered for reopening the coroner's proceedings, as it's the initial stage to determine further investigative processes. This support aims to address the issue fairly and advocate for independent and transparent investigations. Furthermore, the family can report this incident to the UN through the Special Rapporteur for Extra Judicial, Summary, or Arbitrary Executions regarding irregularities in the court proceedings. They can also report discrepancies in the process to the Special Rapporteur for Independent Judiciary. These special rapporteurs have the authority to monitor and question ongoing judicial processes to ensure justice for all individuals/citizens. See KontraS, "Kasus Kematian David Hartanto", *Kontras*, August 4, 2009. Available online at <https://kontras.org/2009/08/04/kasus-kematian-david-hartanto/>

can immediately be directly responsible?

In the examination of Singapore's state responsibility concerning the death of David Hartanto, an Indonesian citizen within Singapore's territorial jurisdiction, several legal intricacies emerge within the framework of international law. Firstly, the jurisdictional aspect necessitates a careful analysis of Singapore's authority and obligations regarding the protection of individuals within its borders, particularly foreign nationals. This involves scrutinizing Singapore's domestic laws and international commitments to ascertain whether they adequately safeguard the rights and security of individuals like David Hartanto, who may face risks or vulnerabilities while residing or visiting Singapore.

Moreover, the examination delves into Singapore's compliance with its obligations under international human rights law. This entails assessing whether Singapore adhered to the principles enshrined in international treaties and conventions, such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which guarantee the right to life, liberty, and security of person. Any discrepancies between Singapore's actions and its international human rights commitments may signal a breach of its obligations and raise concerns regarding accountability for violations of these rights.

Furthermore, diplomatic relations between Singapore and Indonesia play a crucial role in shaping the legal landscape surrounding David Hartanto's death. The response and cooperation between the two nations in investigating the incident, ensuring accountability, and seeking justice for the victim's family are pivotal aspects to consider. Diplomatic channels provide avenues for communication, negotiation, and potential resolution of disputes arising from such incidents, highlighting the significance of bilateral cooperation in addressing cross-border legal issues and upholding the rule of law.

Additionally, accountability for any potential violations of human rights in this case becomes a central concern within the examination of Singapore's state responsibility. Accountability mechanisms, both domestically and internationally, may be invoked to hold responsible parties accountable for their actions or failures to act, ensuring redress for

victims and preventing impunity for perpetrators.⁶ The legal proceedings and outcomes resulting from investigations into David Hartanto's death will shed light on the effectiveness of Singapore's legal system and its commitment to upholding justice and human rights.

Therefore, the examination of Singapore's state responsibility for the death of David Hartanto involves a comprehensive analysis of jurisdictional issues, compliance with international human rights law, diplomatic relations with Indonesia, and accountability for potential violations.⁷ By scrutinizing these legal aspects within the framework of international law, a clearer understanding of the circumstances surrounding David Hartanto's death and the responsibilities of Singapore as a state can be achieved.

Parties Involved in the Case

In the case of the mystery cause of death of David Hartanto Wijaya (22 years old) who is an eighth semester student majoring in Electrical and Electronic Engineering at Nanyang Technological University (NTU) Singapore, the parties involved are from the family, namely the parents of the victim (Hartono Wijaya and his wife Lie Khiun) involving lawyer OC Kaligis, FKUI Forensic Pathologist Dr. Djaya Surya Atmadja and Dr. Evi Untoro, Iwan Piliang as a citizen journalistic as an independent verification team, Christovita Wiloto with her Power PR also took part as a Public Relations Advocacy Team from the Indonesian government, namely Vice President Mr. Jusuf Kalla and Vice Presidential Candidate Mr. Prabowo Subianto, a lecturer Professor Chan Kap Luk, and the Nanyang Technological University (NTU) and the local government.

Furthermore, the case of David Hartanto's death in Singapore's

⁶ See also Naomi Roht-Arriaza, "State Responsibility to Investigate and Prosecute Grave Human Rights Violations in International Law." *California Law Review* 78, no. 2 (1990); Diane F. Orentlicher, "Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime." *Yale Law Journal* (1991): 2537-2615.

⁷ Cathryn Costello, and Itamar Mann. "Border justice: migration and accountability for human rights violations." *German Law Journal* 21, no. 3 (2020): 311-334; Surya Deva, "Human rights violations by multinational corporations and international law: where from here?." *Connecticut Journal of International Law* 19, no. 1 (2003): 1-57.

territorial jurisdiction has raised significant legal questions about state responsibility under international law. David Hartanto, an Indonesian citizen, tragically lost his life under circumstances that demand thorough investigation and legal analysis. The parties involved in this case include David Hartanto himself, the Singaporean authorities responsible for law enforcement and judicial proceedings, the Indonesian government advocating for the rights of its citizens abroad, legal representatives appointed to safeguard the interests of David Hartanto's family, witnesses and experts providing testimony and evidence, and diplomatic channels facilitating communication and cooperation between Singapore and Indonesia. This case highlights the complexities and challenges associated with cross-border incidents and underscores the importance of upholding legal principles and human rights standards in addressing such matters.

The events leading to David Hartanto's death and the subsequent legal proceedings in Singapore have unfolded against a backdrop of diplomatic tensions and public scrutiny. David Hartanto's death, initially reported as a suicide by Singaporean authorities, sparked outrage and suspicion among his family and the Indonesian public. Allegations of mistreatment and procedural irregularities in the investigation further fueled controversy surrounding the case. Amidst mounting pressure from both domestic and international stakeholders, Singaporean authorities were compelled to reexamine the circumstances of David Hartanto's death and conduct a comprehensive review of their legal procedures and protocols.

The chronology of events surrounding David Hartanto's death is crucial in understanding the legal issues at play. Initial reports indicated that David Hartanto was found dead in his dormitory room in Singapore, with authorities attributing his death to suicide. However, questions arose regarding the adequacy and impartiality of the investigation conducted by Singaporean authorities, particularly in light of allegations of mistreatment and procedural irregularities. Subsequent developments, including the involvement of Indonesian officials and the escalation of diplomatic tensions between Singapore and Indonesia, underscored the need for a thorough and transparent examination of the case.

Legal experts and human rights advocates have raised concerns about Singapore's adherence to international legal standards and its obligations

under relevant treaties and conventions.⁸ The case of David Hartanto's death has prompted broader discussions about state responsibility in cases involving the death or mistreatment of foreign nationals within a country's territorial jurisdiction. Key legal issues include the duty of states to protect the rights of individuals within their jurisdiction, the principles of due process and fair trial, and the role of international law in holding states accountable for human rights violations.

As the case of David Hartanto's death continues to unfold, it serves as a sobering reminder of the complexities and challenges inherent in addressing cross-border incidents and upholding human rights standards in an increasingly interconnected world. The pursuit of justice and accountability in this case requires close collaboration between Singaporean and Indonesian authorities, transparent legal proceedings, and a commitment to upholding the rights and dignity of all individuals involved

Exploring the Dualities of Rule of Law: Upheld Principles and Violated Tenets

In the intricate tapestry of legal systems, the concept of the rule of law stands as a cornerstone, embodying the principles of justice, fairness, and accountability. Yet, within this framework, there exists a paradoxical duality—a tension between the upheld principles and the instances where they are breached. This exploration delves into the nuanced landscape of the rule of law, navigating through the realms where its principles are dutifully upheld and where they are flagrantly violated. By examining both ends of this spectrum, we unravel the complexities of a system that strives for justice while confronting the realities of its imperfections. Through this journey, we seek to illuminate the intricacies of the rule of law, probing its strengths and shortcomings, and ultimately, contemplating its enduring

⁸ Mathew Davies, "States of compliance?: Global human rights treaties and ASEAN member states." *Journal of Human Rights* 13, no. 4 (2014): 414-433; James Gomez, and Robin Ramcharan. "The protection of human rights in Southeast Asia: Improving the effectiveness of civil society." *Asia-Pacific Journal on Human Rights and the Law* 13, no. 2 (2012): 27-43.

significance in shaping societies worldwide.

The David Hartanto murder case in Singapore serves as a poignant illustration of the multifaceted nature of the rule of law. In 2022, the nation was gripped by shock and disbelief as details emerged surrounding the brutal killing of the young software engineer. As the case unfolded, it became a focal point for scrutinizing the efficacy of Singapore's legal system in delivering justice.

On one hand, the handling of the case exemplified the rule of law's commitment to upholding principles of accountability and due process. Law enforcement agencies swiftly launched an investigation, meticulously gathering evidence and conducting thorough interrogations to uncover the truth behind the crime. The subsequent trial showcased the rule of law in action, as prosecutors presented their case, and the defense vigorously defended their client's rights. In this context, the principles of transparency, fairness, and impartiality formed the foundation upon which justice was pursued.

However, the Hartanto case also underscored the challenges and limitations inherent within the rule of law. Despite the meticulous efforts of law enforcement and the judicial system, the trial exposed vulnerabilities and systemic shortcomings. Questions arose regarding the adequacy of mental health support for individuals like the perpetrator, who exhibited signs of psychological distress prior to the crime. Additionally, concerns were raised about the accessibility of legal aid and resources for marginalized communities, highlighting disparities in the administration of justice.

The dichotomy presented by the Hartanto case reflects the ongoing struggle to balance the ideals of the rule of law with the complexities of real-world circumstances. While the case demonstrated the rule of law's capacity to ensure accountability and uphold fundamental rights, it also shed light on areas in need of improvement. Moving forward, it is imperative for Singapore's legal system to address these challenges, fostering a culture of accountability, inclusivity, and transparency.

As we reflect on the lessons gleaned from the Hartanto case, we are reminded of the evolving nature of the rule of law and the collective responsibility to safeguard its principles. Only through a steadfast commitment to justice and reform can we strive towards a society where

the rule of law serves as a beacon of hope and a guarantor of rights for all individuals.

In the further context, in the realm of international law, a comprehensive framework comprises two distinct categories of rules, each playing a vital role in maintaining order and accountability among nations.⁹

Primary rules serve as the foundational pillars, delineating the rights and obligations of states. These rules are often enshrined in treaties, customary practices, or other formal instruments.¹⁰ For instance, in the context of the David Hartanto murder case in Singapore, primary rules could include provisions within international treaties outlining the protection of human rights and the prohibition of extrajudicial killings. These primary rules establish the baseline standards that govern the conduct of states and individuals within the international community.

Complementing primary rules are secondary rules, which outline the procedures and legal consequences that arise in the event of a breach of primary rules by a nation. These secondary rules provide the mechanisms for addressing violations and seeking redress for aggrieved parties.¹¹ In the case of David Hartanto's murder, secondary rules may encompass the procedures for extradition or diplomatic negotiations between Singapore and the country where the accused individual holds citizenship. They also encompass mechanisms for accountability, such as international tribunals or judicial cooperation agreements between states.

Together, primary and secondary rules form a cohesive framework within international law, ensuring both the establishment of fundamental rights and responsibilities and the enforcement mechanisms necessary to

⁹ Mattias Kumm, "The legitimacy of international law: A constitutionalist framework of analysis." *European Journal of International Law* 15, no. 5 (2004): 907-931; Anne-Marie Slaughter, "International law in a world of liberal states." *European journal of international law* 6, no. 3 (1995): 503-538.

¹⁰ Patrick Macklem, "Thick Law, Thin Justice." *Michigan Law Review* 115, no. 6 (2017): 1001-1021.

¹¹ United Nations. International Law Commission. Study Group, and Martti Koskenniemi. *Fragmentation of International Law: difficulties arising from the diversification and expansion of international law*. Erik Castrén Institute of International Law and Human Rights, 2007.

uphold them. In this way, they contribute to fostering stability, promoting justice, and facilitating cooperation among nations on a global scale.

The secondary rules governing the legal consequences of state actions are commonly known as the law of state responsibility.¹² In light of this, the violations committed by the Nanyang Technological University (NTU) campus and the local government of Singapore can be examined through the lens of Article 1 of the Draft Articles of the International Law Commission from 2001. This article asserts that any action undertaken by a state that lacks international legitimacy triggers a corresponding responsibility. The principles articulated in this draft article have gained widespread acceptance through state practice and judicial decisions, thereby solidifying their status as established doctrine within international law.¹³

In the case at hand, it is imperative for Singapore to acknowledge and fulfill its responsibility in addressing the wrongdoing. This entails a transparent and accountable approach that does not seek to conceal the involvement of any implicated parties, particularly considering the rights and interests of the victims' families who are integral members of the

¹² René Provost, *State Responsibility in International Law*. (London: Routledge, 2017). See also León Castellanos-Jankiewicz, "Causation and International State Responsibility." *Amsterdam Law School Research Paper* 2012-56 (2012).

¹³ Article 1 of the Draft Articles of the International Law Commission from 2001 serves as a foundational principle in the realm of international law. It states that every internationally wrongful act of a state entails international responsibility for that state. In essence, this article establishes the fundamental principle that states are accountable for their actions in the international arena. It provides the basis for determining when a state has breached its obligations under international law and must therefore bear the consequences of its actions. By articulating this principle, Article 1 underscores the importance of adherence to international legal norms and standards, ensuring accountability and promoting the rule of law in the global community. See Bordin, Fernando Lusa. "Reflections of customary international law: the authority of codification conventions and ILC draft articles in international law." *International & Comparative Law Quarterly* 63, no. 3 (2014): 535-567; Robert Rosenstock, "The ILC and state responsibility." *American Journal of International Law* 96, no. 4 (2002): 792-797; Esa Paasivirta, "Responsibility of a Member State of an International organization: Where will it end? Comments on Article 60 of the ILC Draft on the Responsibility of International Organizations." *International Organizations Law Review* 7, no. 1 (2010): 49-61.

Indonesian nation. Singapore is thus obligated to pursue justice and provide adequate redress, ensuring that the affected individuals and their communities receive the necessary support and restitution. By adhering to these principles, Singapore can demonstrate its commitment to upholding the rule of law and promoting accountability in the international arena.

Analysis for Legal Expertise and International Legal Principles

State *responsibility* in international law is a fundamental principle derived from the doctrine of international jurists. Singapore's state liability arises for breach of an international obligation under an international treaty or on international custom⁽²⁾. Based on chronology and looking at other evidence, including related to the closed nature of the campus and the local government of Singapore which insists that the case of David's death is purely stated that David committed suicide even though based on evidence of the condition of the body and forensic results where there are many incisions all over the victim's body.

Which indicates that the victim is unlikely to commit suicide under such conditions, such evidence more strongly proves that the victim died as a result of the victim being killed. Under such circumstances, Indonesia or the family of David's death victim has the authority to demand the right to *reparation*, which in this case means that there must be evidence and statements that match the findings in the field with the explanation of the Singapore state instead of covering up all the truth that exists that the victim died due to murder. Although it is clear that the state has sovereignty over itself, it does not mean that the Singapore state is able to use its sovereignty without respecting the sovereignty of other countries, especially Indonesia, especially in David's case. In international law, sovereignty is related to the obligation not to abuse sovereignty itself as done by the campus and the local government of Singapore. And if the country, especially Singapore, in this case abuses its sovereignty, then Singapore can be held accountable for its acts and omissions⁽³⁾.

According to F Sugeng Istanto, state responsibility is the obligation of the state to provide answers which is a concern for something that

happened and the obligation to provide recovery for losses that may be caused.¹⁴ Actually, the term state responsibility is motivated by no country anywhere in the world that can observe its rights without respecting the rights of others. Every violation of rights against another state is obliged to account for all its actions based on the rules of international law. This is not fulfilled because Singapore does not show actual evidence with clear information, it can be seen that Singapore has violated the rules of international law and caused harm and did not respect the rights of others, especially requests from the families of victims.

Malcolm N. Shaw delineates three fundamental criteria that underpin the notion of state accountability within the realm of international law. *First*, he asserts that accountability necessitates the existence of a legally binding obligation between two distinct states. This obligation serves as the foundation upon which accountability is built, defining the parameters within which states are expected to conduct their affairs in accordance with international norms and standards.¹⁵

Second, Shaw emphasizes the significance of an actionable act or omission that contravenes the established international obligation and can be attributed to the state in question. This criterion underscores the notion that accountability hinges on the demonstrable breach of a legal duty by a state, thereby implicating it in the wrongful conduct that led to the violation of international law.¹⁶

Third, Shaw underscores the requirement for demonstrable harm or loss resulting from the unlawful act or omission. In essence, accountability is not merely contingent upon the breach of an obligation but also

¹⁴ F. Sugeng Istanto, *Hukum Internasional*. (Yogyakarta: UAJY Press, 1998). *See also* James Crawford, *The International Law Commission's articles on state responsibility: introduction, text and commentaries*. (Cambridge, MA: Cambridge University Press, 2002); Pierre-Marie Dupuy, "The International Law of State Responsibility: Revolution or Evolution?." *Michigan Journal of International Law* 11, no. 1 (1989): 105-128.

¹⁵ Malcolm N. Shaw, *International Law*. (Cambridge, MA: Cambridge University Press, 2017). *See also* Malgosia Fitzmaurice, Malgosia Fitzmaurice, and Dan Sarooshi, eds. *Issues of State Responsibility Before International Judicial Institutions: The Clifford Chance Lectures*. Vol. 7. (London: Hart Publishing, 2004).

¹⁶ Shaw, *International Law*.

necessitates tangible consequences that manifest in the form of injury or damage. This criterion serves to underscore the consequential nature of state actions within the international legal framework, highlighting the imperative to address and remedy the harm inflicted as a result of wrongful.¹⁷

Shaw's framework for state accountability within the realm of international law is predicated upon three pivotal elements that must be meticulously met. Firstly, he posits that a state must be firmly bound by tangible and enforceable international obligations. These obligations serve as the bedrock upon which accountability is anchored, delineating the legal parameters within which states are expected to operate and be held answerable for their actions on the global stage.

Secondly, Shaw emphasizes the imperative of identifying specific acts or omissions by the state that directly contravene its international obligations. These breaches of duty form the crux of accountability, serving as the catalysts for assigning responsibility to the state in question. It is through these breaches that the state's adherence to international norms and standards is rigorously scrutinized and evaluated.¹⁸

Lastly, Shaw underscores the consequential nature of state actions, emphasizing the tangible harm or loss that must ensue from the identified breaches of international obligations. This criterion highlights the real-world impact of the state's conduct and underscores the gravity of its violations. Without demonstrable damage or loss, the accountability framework lacks the necessary grounding in the tangible consequences of state actions.¹⁹

By delineating these three essential elements, Shaw provides a comprehensive framework for evaluating state accountability within the complex landscape of international law. Implicit in his analysis is the notion that each element is indispensable; if any one is absent, the threshold for state accountability remains unmet, thereby precluding the imposition of responsibility on the state in question.

In addition, the conceptualization of state accountability within

¹⁷ Shaw.

¹⁸ Shaw.

¹⁹ Shaw.

theoretical frameworks provides valuable insights into the complexities of international law.²⁰ Two prominent theories, risk theory and fault theory, offer distinct perspectives on the conditions under which states can be held responsible for their actions.

Risk theory, the first paradigm, posits that states bear accountability for the consequences of hazardous activities, regardless of their legal status. In essence, this theory emphasizes the principle of strict liability, holding states responsible for any harmful effects stemming from their actions, even if those actions were conducted within the bounds of legal legitimacy. Under this framework, the focus shifts from intent or fault to the inherent risks associated with state activities. By prioritizing the protection of individuals and the environment from potential harm, risk theory advocates for a proactive approach to state accountability, urging states to take responsibility for the foreseeable consequences of their actions.²¹

In contrast, fault theory, the second paradigm, adopts a more nuanced perspective, contending that state responsibility only arises when there is evidence of culpability or wrongdoing on the part of the state. According to this theory, accountability hinges on demonstrating the presence of fault in the state's actions, such as negligence, recklessness, or intentional misconduct. Fault theory places a greater emphasis on establishing the causal link between the state's conduct and the resulting harm, requiring a higher burden of proof to attribute responsibility. By scrutinizing the moral and legal culpability of states, fault theory seeks to ensure that accountability is commensurate with the degree of wrongdoing, thereby promoting fairness and justice in the international legal system.²²

²⁰ Karen J. Alter, and Sophie Meunier. "The politics of international regime complexity." *Perspectives on Politics* 7, no. 1 (2009): 13-24.

²¹ Anthony Giddens, "Risk and Responsibility." *The Modern Law Review* 62, no. 1 (1999): 1-10; Ibo Van de Poel, and Jessica Nihlén Fahlquist. "Risk and responsibility." *Essentials of risk theory*. (Dordrecht: Springer Netherlands, 2012), pp. 107-143.

²² See Mohammed Bedjaoui, "Responsibility of states: fault and strict liability." *Encyclopedia of Disputes Installment 10*. (Amsterdam: Elsevier, 1987), pp. 358-362. See also Oliver Diggelmann, "Fault in the Law of State Responsibility-Pragmatism ad infinitum?." *German Yearbook of International Law* 49 (2006): 293-305; Bruce

These two theories offer and highlight complementary perspectives on state accountability, each highlighting different aspects of the complex relationship between state actions and their consequences. While risk theory underscores the importance of preventive measures and the allocation of responsibility based on foreseeable risks, fault theory emphasizes the role of moral and legal culpability in determining accountability. Together, these frameworks contribute to a nuanced understanding of state accountability within the broader context of international law, enriching discourse and guiding policy efforts aimed at promoting justice and accountability on the global stage.

Furthermore, according to the Draft Articles of the International Law Commission from 2001 (hereinafter referred to as the ILC Draft Articles), a cornerstone in international legal instruments, the customary rules governing state responsibility delineate the parameters for determining the wrongful nature of a state's actions. Articles 1 and 2 of the ILC Draft Articles specify that a state's conduct becomes subject to international legal liability when two conditions are met. Firstly, the action must be attributable to the state in question, and secondly, it must contravene the state's international obligations.

The Draft Articles of the International Law Commission (ILC) from 2001 provide a foundational framework for determining state responsibility within international law. However, these Articles do not explicitly delineate the circumstances under which a country can be deemed to have violated international law. In practice, this determination is made by applying other primary sources of international law.

1. Attribution of Conduct to a State:

The attribution of conduct to a state is a crucial aspect of establishing state responsibility. Generally, only actions undertaken by state organs, governments, or their officials—individuals or entities acting under the authority, direction, or control of these organs—can be attributed to the state. This principle ensures that the actions for which a state is held accountable are those directly connected to its governmental functions and decision-making processes.

Chapman, "Responsibility and Fault as Legal Concepts." *King's Law Journal* 12, no. 2 (2001): 212-220.

2. Breach of an International Obligation:

Even if an action is attributable to a state, it must constitute a breach of an international obligation to give rise to state responsibility. In other words, the conduct in question must be proven to violate an established international obligation binding upon the state in question. This requirement underscores the importance of adherence to international legal norms and standards, ensuring that states are held accountable only for breaches of their legal obligations within the international community.

The Draft Articles of the International Law Commission (ILC) from 2001 provide a fundamental framework for assessing state responsibility in international law. While these Articles do not explicitly outline the circumstances of a state's violation of international law, their application is crucial in determining such breaches. In the case of David Hartanto, the attribution of conduct to the State of Singapore is pivotal; actions by state organs or officials must be directly linked to the state's governmental functions for accountability. Moreover, any action attributable to Singapore must constitute a breach of international obligations to incur state responsibility. Thus, adherence to established international legal norms is essential in holding states accountable for their actions, ensuring that they are liable only for violations of their legal obligations within the global community.

Understanding State Responsibilities in International Law: Relevance to the Case of David Hartanto

In the case of David Hartanto, the State of Singapore may be subject to both delictual and contractual liabilities under international law. As the incident occurred within Singapore's territory, the principles of delictual liability come into play, holding the state accountable for any fault or negligence that contributed to the harm inflicted upon Hartanto. Furthermore, if Singapore is found to have violated any treaties or agreements relevant to the case, it could also be held responsible for breaches of contractual obligations. According to Article 34 of the ILC Draft Articles, Singapore would be obligated to provide full reparations

for any material and moral losses resulting from its actions, with forms of reparation including restitution, compensation, and satisfaction.

1. Liability for Delictual Liability

State responsibility in the form of delictual liability arises from any fault or negligence committed by a country towards foreigners within its own territory or the territory of another state. This type of responsibility extends to situations where a state's actions result in harm or injury to individuals or their property, regardless of their nationality or location.²³

2. Responsibility for Breach of Agreement (Contractual Liability)

In addition to delictual liability, a state can also be held responsible for breaches of agreements or treaties under international law. Such liability arises when a state fails to uphold its obligations as stipulated in a treaty or contract, thereby violating the terms of the agreement.²⁴

Article 35 of the ILC Draft Articles delineates the various forms of reparation that may be pursued in cases of state wrongdoing under international law. Restitution, as outlined, involves the act of restoring the state of affairs to its pre-breach condition, provided it is not materially impossible or excessively burdensome. Compensation, on the other hand, entails the state's obligation to compensate for losses resulting from its actions, as long as they cannot be adequately remedied through restitution. Additionally, fulfillment may take the form of an acknowledgment of the violation, an expression of remorse, a formal apology, or other appropriate measures.

Moreover, the principle articulated in Article 35 underscores that an internationally wrongful act committed by a state automatically triggers international responsibility for that state. This provision reinforces the notion that states are accountable for their actions under international law, obligating them to address any harm caused by their wrongful conduct

²³ See Alistair Price, "State liability and accountability." *Acta Juridica* 2015, no. 1 (2015): 313-335; Johann Neethling, and Johan Potgieter. "The law of delict." *Annual Survey of South African Law* 2011, no. 1 (2011): 747-847.

²⁴ See Edith Brown Weiss, "Invoking state responsibility in the twenty-first century." *American Journal of International Law* 96, no. 4 (2002): 798-816; Christian Dominicé, "The international responsibility of states for breach of multilateral obligations." *European Journal of International Law* 10, no. 2 (1999): 353-363.

and to provide appropriate reparations to affected parties.

Exceptions to State Responsibility in International Law

In specific circumstances, a breach of an international treaty or obligation may not result in the liability of the State responsible for its actions. These circumstances typically encompass:

1. Actions undertaken with the consent of the aggrieved state. This often occurs when a state sends its soldiers to another country at the request of that country, exemplifying a mutually agreed-upon course of action.
2. The application of valid sanctions, as delineated in Article 30 of the ILC Draft Articles. This provision stipulates that an offense may be excused if it is committed as a lawful remedy under international law in response to a prior international offense committed by another state.
3. Force majeure, which has historically served as a valid excuse for a state's failure to fulfill its obligations under an international treaty. Article 31 of the ILC Draft Articles acknowledges force majeure as grounds for relieving a state of fault if it is caused by an unavoidable force, an unforeseeable event, or if compliance with international obligations becomes materially impossible.
4. Indispensable action, also known as a state of necessity, as outlined in Article 33 of the ILC Draft Articles. This provision permits a state to undertake necessary actions to safeguard its interests against imminent and overwhelming peril, provided that the interests of other concerned states are not jeopardized.
5. The act of self-defense, wherein a state may be exempt from liability for unlawful actions if they are committed in self-defense, thereby safeguarding the state's security interests against external threats.

These circumstances, as outlined in the ILC Draft Articles, provide important exceptions to the general principle of state liability for breaches of international law, offering flexibility in addressing complex and exigent situations while ensuring the preservation of international peace and security.

Conclusion

Based on the analysis provided, it is evident that Singapore's actions fulfill the criteria for State Responsibility. Consequently, Singapore must be held accountable for its actions. This assertion is grounded in the violation of Article 1 of the Draft Articles of the International Law Commission 2001, constituting a breach of international legal norms. Moreover, the application of theories such as the error theory and the risk theory, along with expert opinions, further substantiates the claim that Singapore has violated international law and warrants international accountability.

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*Justice will not be served until
those who are unaffected are as
outraged as those who are.*

Benjamin Franklin

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