BLOGS

Doctrine of Rebus Sic Stantibus: Article 62 VCLT & CLAT PG

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Can a State withdraw from a treaty merely because the world has changed after the treaty was signed? Usually, the answer is no. Treaties are made to create certainty and must be performed in good faith. But international law recognises a very narrow exception where the circumstances forming the foundation of a treaty have fundamentally changed. This exception is known as clausula rebus sic stantibus, commonly shortened to Doctrine of Rebus Sic Stantibus. The Latin phrase means “things thus standing”. It is reflected in Article 62 of the Vienna Convention on the Law of Treaties, 1969 (VCLT), which deals with a fundamental change of circumstances.

This doctrine is important for CLAT PG as it tests the balance between treaty stability and the need to respond to extraordinary changes. This article explains its meaning, legal basis, conditions, limits, procedure and leading cases in simple language.

Meaning of Doctrine of Rebus Sic Stantibus

Rebus sic stantibus means that an agreement is made on the basis of continuing circumstances. If those circumstances later change in a fundamental and unexpected way, a State may seek to end or withdraw from the treaty under strict conditions.

It is not a general right to escape an inconvenient treaty. The change must affect the foundation of the original consent and radically alter the obligations that remain. The doctrine is recognised as customary international law and is codified through Article 62 VCLT. The Convention uses the expression “fundamental change of circumstances”, not the Latin phrase.

Relation with Pacta Sunt Servanda

The general rule is *pacta sunt servanda*, meaning that agreements must be kept. Article 26 VCLT provides that every treaty in force is binding on its parties and must be performed in good faith.

Doctrine of Rebus sic stantibus operates as an exceptional safety valve to that rule. The two doctrines should not be treated as equal or competing starting points. *Pacta sunt servanda* is the rule. *Rebus sic stantibus* is available only when the demanding requirements of Article 62 are satisfied.

The reason for this strict approach is clear. If every economic or political difficulty allowed a State to leave a treaty, treaty relations would become uncertain. Read CLATalogue's Quick Revision Notes on Public International Law for connected treaty-law concepts.

Article 62 VCLT: Conditions for Application

Article 62 allows a fundamental change of circumstances to be invoked only when all the relevant conditions are met.

1. The change must be fundamental

The change must be substantial, not minor or temporary. A routine change in government policy, a financial loss or a change in political preference is normally insufficient.

2. The circumstances must have formed an essential basis of consent

The original circumstances must have been objectively important when the parties agreed to the treaty. It is not enough for one State to say that it personally considered those circumstances important. They must have formed part of the foundation on which the parties consented to be bound.

3. The change must have been unforeseen

The change must not have been contemplated by the parties at the time of conclusion. Article 62 cannot normally be used to escape the agreement, if the treaty already deals with the risk.

4. The change must radically transform the remaining obligations

The change must substantially alter the extent of the obligations still to be performed. It is not enough that performance has become difficult or less profitable. The future burden must be radically different from what the parties originally accepted.

5. The State must not have caused the change through its own breach

A State cannot create a crisis through its own violation and then rely on that crisis as a reason for ending the treaty. Article 62 excludes a change resulting from a breach by the State invoking the doctrine, whether the breach is of the treaty or of another international obligation owed to a party to the treaty.

Treaties To Which The Doctrine of Rebus Sic Stantibus Does Not Apply

Article 62 expressly states that a fundamental change of circumstances cannot be invoked as a ground for terminating or withdrawing from a treaty if the treaty establishes a boundary. Boundary arrangements require stability because allowing one State to reopen them whenever circumstances change could threaten peace and territorial certainty.

The *doctrine of Rebus Sic Stantibus* also cannot be used where the treaty itself provides a specific method for termination or withdrawal that governs the situation. Article 42 VCLT generally limits challenges to the validity or continuation of treaties to the grounds recognised by the Convention or the treaty itself.

Legal effect after Termination, Withdrawal or Suspension

When Article 62 is successfully invoked, the result depends on the treaty's structure. A State may seek to terminate the treaty, withdraw from it or suspend its operation where the Convention permits that consequence. Article 62 is not a general power to rewrite treaty terms or unilaterally modify every obligation.

The State must follow the procedure in Article 65 VCLT. If it alleges wrongdoing, it should notify the others and give relief sought. If a party objects, it is required to seek to negotiate and find other peaceful means of settling the parties. A State cannot unilaterally declare the termination of a treaty.

Important Cases

Fisheries Jurisdiction (United Kingdom v. Iceland), 1973

Iceland relied on changed circumstances in its dispute with the United Kingdom concerning fishing jurisdiction. It argued that developments in the fishing industry and its economic dependence on fisheries justified a change in the earlier arrangement.

The International Court of Justice rejected Iceland's argument. The circumstances relied on did not fundamentally transform the obligations still to be performed. The case shows that economic or political importance alone is not enough. The change must meet the strict Article 62 test.

Gabcikovo-Nagymaros Project (Hungary/Slovakia), 1997

Hungary wanted to terminate a treaty on a dam project based on changes in circumstances, changes in terminology, and international environmental law and environmental issues. The ICJ treated the doctrine with caution and found that the requirements for invoking fundamental change had not been satisfied.

The significance of the case is that it confirms the insufficiency of the first three matters namely new scientific knowledge, environmental concerns and difficulties in implementing a project per se in failing to satisfy Article 62. The change must also be unforeseeable, must be a basis, which was a necessary one at the time consent was given, and must radically transform the extent of obligations to be performed.

Doctrine of Rebus Sic Stantibus and Related Concepts

Force Majeure

Force majeure concerns an unforeseen event that makes performance impossible. Under rebus sic stantibus, performance may remain possible, but the foundation of the treaty and the scale of the remaining obligations have changed radically.

Hardship and Domestic Frustration

Hardship means that performance has become excessively difficult or burdensome. Domestic systems may use frustration or impossibility in contract law. These ideas are useful comparisons, but they do not replace the strict Article 62 test.

Quick Revision Points for CLAT PG

- Meaning: “things thus standing” i.e. fundamental change of circumstances.
- Main provision: Article 62 VCLT.
- General rule: Article 26 VCLT, pacta sunt servanda.
- Requirements: fundamental and unforeseen change, essential basis of consent, radical transformation of remaining obligations.
- Limitations: no boundary treaties, no reliance on a change caused by the invoking State’s own breach.
- Procedure: Article 65 VCLT, including notice and opportunity for objection.
- Cases: Fisheries Jurisdiction, Gabcikovo-Nagymaros Project, Free Zones.
- Exam distinction: difficulty or loss is not the same as a fundamental change under Article 62.

For further preparation, revise CLATalogue’s Sources of International Law, Public International Law: Nature, Scope and Sources, Settlement of Disputes and the Law of the Sea, and Landmark Judgments in Public International Law.

Conclusion

Doctrine of Rebus sic stantibus is a narrow exception to the binding force of treaties. It recognises that international relations can change, but it does not allow States to leave an agreement whenever performance becomes inconvenient. Under Article 62 VCLT, the change must be fundamental, unforeseen, essential to the original consent and radically transformative of the obligations still to be performed.

For CLAT PG, remember the balance between *pacta sunt servanda* and *rebus sic stantibus*. *Pacta sunt servanda* protects treaty stability, while rebus sic stantibus provides limited flexibility in extraordinary situations.