

PERAKUAN KEIZINAN

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PREFACE

Treaties are an indispensable feature in the international community today. They are a source of international law. The international order has undergone many changes since the era of colonization and treaties have been instrumental in meeting the changing needs and conditions in the international community. They are known to cover almost all matters concerning nations and peoples - from human rights, peaceful settlement of disputes, the renunciation of war to matters such as drug control, bills of exchange, copyright, aviation and sanitation. In particular, the present economic order is governed largely by treaties.

Whilst such is the significance of treaties, State succession has also been a recurring phenomenon in international law. Throughout the history of international law there has been taking place, the replacement of one State by another in a particular territory; whether it be by secession, annexation, through independence, or by the formation of a union or federation. The most common form of succession that has been taking place in the present century is the independence of colonized States. The independence of these States has made a considerable impact on the law of State succession to treaties. As such, emphasis is primarily given to the role of the newly independent States in relation to State succession to treaties. The crux of this paper is the consideration of the fate and position of the treaties of the predecessor State when succession occurs. In this respect, it is essential to discover whether there are any

definite and stable rules governing the succession of States to treaties.

A factor which has largely motivated the writing of this paper is a consideration of Malaysia's position in relation to the succession of treaties. Malaysia has emerged during this era of decolonization and this subject is therefore of particular relevance here. Yet, no consolidated study tracing the pattern of State succession to treaties or the relevance of this topic to Malaysia appears to have been made. It is the writer's hope that the chapter on Malaysia will serve as an opening into the subject which will lead to a deeper study of the subject.

In the course of research, the writer has met two persons who had cherished the hope of writing such a paper with reference to Malaysia. However, due to lack of material and lack of cooperation from the necessary places, such paper did not materialise. The writer herself has faced several setbacks and has had moments of despair while working on the paper, this area of the law being virgin as far as Malaysia is concerned.

Few people seem to know what State succession means and few can be said to be knowledgeable on the subject. Fewer still are those who are willing to talk on the subject. As a result, although attempts were made at interviews; often such attempts proved to be fruitless.

Owing to such limitation, the writer's work has at times, been

purely academic. Work has centred on the search of primary documents, books and journals. Even in this respect, the inavailability of books was encountered. For examples, the most basic and up-to-date text, "State Succession in Municipal Law and International Law", by O'Connell, was not available for study in the Library at the University of Malaya. It might safely be said that the Library is insufficiently equipped with books relating to State succession.

State succession, especially to treaties, is an important topic in international law and also of great relevance to Malaysia. It is this concept which has constituted the basis of stability and security for the newly independent Federation of Malaya. It is therefore submitted that more persons in the relevant offices make a deeper and more analytical study and be more open to discussion on the subject. It is also suggested that the Library at the University of Malaya be better equipped and updated with the relevant materials on State succession to facilitate such a study.

With these suggestions and with the consideration of the subject in this paper, it is hoped that there will be sufficient stimulus to cause the subject to come alive in the near future in Malaysia.

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