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Researching International Law from the Fourth world Perspective: An Assessment of Possibilities and Pathologies

Sachin Mintri^a Naina Jacob^b

^aWest Bengal National University of Juridical Sciences, Kolkata, India ^bSymbiosis International University,
Pune, India

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Public international law deals with and facilitates the conduct of nation-states in resolving conflicts among themselves on a global scale. The scope of the same is exceptionally vast, poured to the brim with treaties, conventions, agreements, and summit agreements. To encapsulate, public international law comprises everything ranging from Trade-Related Aspects of Intellectual Property Rights to international humanitarian conventions such as the Geneva Convention to the United Nations Charter. Despite a plethora of legal instruments being in place, the enforcement and viability of such international law systems is still a question that has been taken up time and again, especially in the context of fourth world countries. The fourth world is a term used to identify nations where underdevelopment and poverty are paramount. The inhabitants of these nations are often aboriginal groups without any political affiliation with the rest of the world.¹ There are often no domestic laws or enforcement bodies in such nations, which make enforcement or even promulgation of international laws a distant dream. Through this paper, the authors would aim to understand the nature and stakeholding of fourth world countries in the global political and social sphere and their position in public international law. The paper would also incorporate the hurdles in implementing and

¹ Richard E. Bissell, 'The "Fourth World" at the United Nations' (1975) 31 (9) Royal Institute of International Affairs, 376-382 <<https://www.jstor.org/stable/i40017889>> accessed 22 May 2022; Daniel Liberto, 'Fourth World Definition' (Investopedia, 27 November 2020) <<https://www.investopedia.com/terms/f/fourth-world.asp>> accessed 22 May 2022

enforcing international law in the territory of Fourth World countries. In the last part of the paper, the authors shall discuss and lay down the opportunities and possibilities that the international laws and frameworks might offer to fourth-world nations.

Keywords: *public international law, fourth world countries, least developed countries, aboriginal.*

INTRODUCTION

Keeping Richard E. Bissel's definition in mind, let us understand the concept of fourth world nations from a present-day perspective. However, it is also to be noted that Bissel's definition of Fourth World Countries or nation-states was coined more than forty years ago and might not hold good today.² The term "Fourth World" refers to the globe's many un(der)developed, impoverished, as well as downtrodden regions. The people living in these countries have little or no civic allegiances and are said to be primarily hunter-gatherers that live in wandering communities or belong to tribal groups. They may well be fully operational and self-sufficient; however, their Fourth World classification is determined by their economic and social development.³

During and after the Cold War, each country was classified into specific "world groups." *Firstly*, the 'First World' included nations that accepted NATO and capitalistic ideologies.⁴ *Secondly*, the 'Second World' included those which favored communists and also the Soviet Union.⁵ *Thirdly*, the countries that were not firmly affiliated with either side were referred to as the 'Third World.'⁶ The destitute European territories and all Middle Eastern, African, Asian, and Latin American countries were classified under the third-world group. *Finally*, the term "Fourth World" had been coined in furtherance of the "Third World" to mean and refer to regions and people with extreme resource scarcity and low per capita incomes.⁷

² *Ibid*

³ Hiroshi Fukurai, 'Fourth World Approaches to International Law (FWAIL) and Asia's Indigenous Struggles and Quests for Recognition under International Law' (2018) 5 (1) Asian Journal of Law and Society, 221-231

⁴ *Ibid*

⁵ *Ibid*

⁶ Richard E. Bissell (n 1)

⁷ Daniel Liberto (n 1)

The word 'Fourth World' is frequently employed to characterize areas of Third World nations that are often the most impoverished. The majority of such regions have little or no geopolitical links. Such individuals could even reside within a First World nation in certain situations. Meanwhile, their socio-economic conditions are comparable to that of Third World countries and are mostly self-sufficient. An instance in this regard is the Tribal groups (*Adivasis*) who live in extreme poverty in the Indian states of Chattisgarh, Jharkhand, and Madhya Pradesh.

Nevertheless, their financial outlook lags considerably below many other developed countries, or other developed parts of such countries. Aboriginal tribes, for instance, do not seek support from the international community, or to put it more correctly, are neglected by the so-called international community. Such aboriginal groups who fall under the fourth-world classification are often disregarded from the population size of the economic surveys. As a result, their contribution to the world (or even domestic) economy is non-existent.

CONTEMPORARY COMPARISON WITH LDCs

Least Developed Countries ("LDCs") are nations with low-income economies that face significant systemic barriers toward long sustainability. These are extremely sensitive to environmental and economic shocks, and also their human resource is limited. As of today, forty-six countries are present in the list of LDCs, including Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Lao People's Democratic Republic, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Myanmar, Nepal, Niger, Rwanda, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Sudan, Timor-Leste, Togo, Tuvalu, Uganda, United Republic of Tanzania, Yemen and Zambia.

When compared to LDCs, several 'fourth world' nations can be found in the aforementioned list. Basically, the only difference between the actual definition of 'fourth world' and LDCs is the aspect of self-sufficiency. Self-sufficiency is not *per se* omitted or explicitly excluded from

the LDCs' definition given by the United Nations. Classifying as low-income countries, fourth world nations automatically fall into the category of LDCs.

It is imperative to note that for this paper, the authors have not considered the regions and territories that fall under the jurisdiction of developed nations, but only considered those regions having their distinct geography. For this discussion, Fourth-world countries may be isolated from the rest of the world. Native communities in Latin America and Australia, for instance, are essentially self-sufficient yet do not participate in international trade. Such cultures might operate without the assistance of outsiders, although they are classified as Fourth World Nations across a global scale. Perhaps from a broader perspective, Fourth World Nations generate and absorb anything, unaffected by international developments.

Political borders do not define the Fourth World's areas. These are commonly referred to as "nations without the need for a sovereign status" in various circumstances, stressing the perceived non-recognition as well as marginalization mostly from global politico-economic order of culturally and spiritually distinct individuals, including First World Nation tribes in Northern, Central, as well as Latin America.

Essentially, the fourth world countries fall within the purview of LDCs, when we take up the following criteria into consideration:

1. Low/No Economic Impact on the Global Trade: When it comes to economic impact, least developed nations and fourth world nations effectively have the most negligible development and contribution on the economic front.⁸ Fourth world nations, mainly due to their self-sufficient nature, do not contribute to the world economy.
2. No International Implications in terms of Diplomacy: As the fourth world countries are most distant from world politics, there are little or no international implications to these countries when it comes to diplomatic relations.⁹ Following a 'no give, no take' approach, these countries aim to be or at least are in their essence engrossed in a closed economic cycle.

⁸ *Ibid*

⁹ Gabriel Awuah & Mohamed Amal, 'Impact of globalization: The ability of less developed countries' (LDCs') firms to cope with opportunities and challenges' (2011) 23 (1) *European Business Review*, 120–132

In modern times, the concept of fourth world countries does not hold good to the extent of substantially affecting the global economy or their respective domestic economies. The global disconnect is a primitive concept. However, partial marginalization is still present in most LDCs, specifically parts of Africa, Latin America, and most of South East Asia, including India. Hence, in current times, it would be an appropriate approach to consider fourth world nations as LDCs as classified by the United Nations, rather than dividing the world into groups, which in the author's humble opinion is a privileged obsession of the West.

BLANKETED NATURE VIS-À-VIS INTERNATIONAL FRAMEWORKS

International Law is a pervasive body of rules and regulations that is followed by the nations and accepted through treaties and conventions. There is always a consensus when it comes to applying the principles of international law on a global scale.¹⁰ However, when it comes to enforcement, nation-states might lack domestic enforcement, which might be due to a variety of reasons such as lack of a proper legal enforcement system, weak judicial bodies, internal disturbances, and *inter alia*.¹¹ Such an absence or weakness in the enforcement system creates a barrier and discord between the international governing bodies and the nation-state, leading to an inefficient to-and-fro flow of information and trade. It is no wonder that such conditions are dominant in fourth world nations and LDCs, which often hurdle in solving even the problems deemed immoral on the international stage.

In this section, the authors aim to understand the working of international laws, apply the learning to fourth world nations or LDCs with a contemporary example, and conclude whether such disconnected or 'blanketed' nature of fourth world countries is responsible for barriers to opportunities.

INTERNATIONAL LAW AS A CONSENSUS FRAMEWORK

A sovereign agreement is indeed the cornerstone of international law. The majority – many would argue all – of a government's statutory engagements are dependent on its permission to be obligated. An emphasis on consent best protects small countries from bigger or strong

¹⁰ Bruce Cronin, 'International Legal Consensus and the Control of Excess State Violence' (2005) 11 (3) Global Governance, 311-330

¹¹ *Ibid*

countries. If a nation believes that a suggested amendment to international treaties is not within the country's interest, it might as well refuse to consent to that. The pledge to agreement protects nations' authority, which also poses a severe challenge to the global system. Since any government may disagree with any prospective regulation of international jurisdiction, only modifications that favor all countries concerned can be implemented. It thus leads to a clumsy status quo skew. However, changes to the law which result in a sacrifice of welfare are eschewed, and modifications that raise well-being among the majority though not all countries are also overlooked.

Rightly said, a sovereign agreement is the bedrock of contemporary international law. However, such dedication to consent is a dual blade during an age of severe ecological concerns. When we look at one aspect, agreement safeguards public objectives and promotes the concept of equality of states. On the opposite end, in what seems like a society where interests and priorities are dramatically different, it serves as a deterrent to productive collaboration. Consent is required, which produces a tremendous status quo prejudice that stymies numerous initiatives to fix world challenges.

It is simple to see how consent plays a crucial role in international law. The nation continues to be a powerful political entity in today's fragmented and chaotic global community. Countries operate on account of their respective inhabitants, sign treaty obligations, assert absolute authority throughout their territories, and have a stronghold on using power inside national borders. They preserve their influence through what occurs inside their boundaries with unwavering zeal. Governments also determine which global responsibilities will be honored and should be disregarded. Countries have much more power over the substance and interpretation of international norms than just about any other entity.¹² Out of these considerations, it is indeed a simple step to the inference that nations can and must only be obligated with explicit permission, or, to put it another way, any alterations to international treaties need agreement.

¹² Bruce Cronin (n 10)

When it comes to asserting a consensual framework within fourth world nations, it will not be possible owing to the collapsed (or collapsing) government structures, as the consensus will not essentially mean anything until there is a body present for enforcement and deployment. Plus, ground realities are way different than generally portrayed in media, especially when it devolves upon human rights violations, as in Afghanistan or Ukraine today. To understand the issue better, the author has put Afghanistan's case study under the lens of scrutiny.

AFGHANISTAN - CONSENSUS FAILURE

Afghanistan has been going through a crucial transitional moment, to put it politely. Afghanistan's citizens are already faced with the enormous challenge of reconstructing a culture and a nation. Even though this task is overwhelming, this also presents a chance for Afghanistan's young citizens to significantly improve the nation's leadership positions. Nevertheless, to take advantage of these opportunities, Afghanistan's human capital must be revived as well as refilled as soon as possible. Afghanistan's long-lasting war has wreaked havoc on the nation's infrastructure and seriously hampered the agencies responsible for teaching and producing leaders.¹³

With the drawdown of US and coalition troops and the departure of the last repatriation aircraft, many Afghans and foreign citizens found it impossible and hazardous to escape the nation. A lucky few were eligible for rescue aircraft, mostly citizens of other countries, while the Afghans working for multinational organizations were posed with the danger of Taliban retaliation. Ensuring the ability to escape – along with the opportunity to obtain refuge – for all those stuck in Afghanistan, including Afghan refugees who may have found themselves in uncertainty in nearby nations, is vital. The United Nations must keep paying notice to the issue and take some action.

The capacity to exit any nation-state is provided under the international treaties and several critical human rights treaties and accords recognize it. Article 12(2) of the *International Covenant on Civil and Political Rights*, subjected to specified and legitimate limits provides,

¹³ *Ibid*

“Everyone must be free to leave any country, including his or her own.”¹⁴ Despite the fact that privilege safeguards everybody, it is essential for individuals trying to leave and find refuge elsewhere. This freedom to depart came on the attack throughout the Cold War; The Berlin Wall had only been built to prevent individuals from fleeing as well as selecting “whatever system of government individuals choose to live under by relocating from one nation to the other.” The freedom to depart is still a major procedural and substantive need currently. If such a person has so far not fled one’s homeland and customary jurisdiction, they cannot be considered a migrant as per Article 1A (2) of the Refugee Convention.¹⁵

The entitlement puts a variety of duties mostly on Insurgents, foreign states, and intergovernmental groups to provide expression towards the rights to flee Afghanistan and seek refuge in the foreign nations. Individuals should possess the freedom to leave whatever nation and their homeland, as established mainly through the Human Rights Committee’s General Comment concerning Freedom of Movement, issued in the year 1999, as well as its judgments on specific cases.¹⁶ It should be guaranteed both by the nation from which one seeks to depart and the individual’s native country when they are overseas.

Considering the Taliban’s rule over Afghanistan, authorities have a statutory obligation not to block anybody’s freedom to depart their nation. Government should keep its pledge to let all foreign citizens and Afghan citizens have traveling authorization to exit the country.¹⁷ On the other hand, Afghans without such authorization must be entitled to flee due to the ability to request refuge as per Article 14 of the UDHR and Article 31 of the Refugee Convention, which prohibits penalizing refuge applicants for the unlawful entrance.¹⁸ The privilege likewise applies to all neighboring nations and international territories. They should not hinder departure by shutting their borders and frontiers, erecting fences, or relocating refuge

¹⁴ International Covenant on Civil and Political Rights, 1996, art.12(2)

¹⁵ Refugee Convention, 1951, art.1A (2)

¹⁶ ‘Afghanistan’ (*Amnesty International*) <<https://www.amnesty.org/en/location/asia-and-the-pacific/south-asia/afghanistan/report-afghanistan/>> accessed 22 May 2022

¹⁷ Federica Paddeu & Niko Pavlopoulos, ‘Between Legitimacy and Control: The Taliban’s Pursuit of Governmental Status’ (*Just Security*, 7 September 2021) <<https://www.justsecurity.org/78051/between-legitimacy-and-control-the-talibans-pursuit-of-governmental-status/>> accessed 22 May 2022

¹⁸ Julia Emtseva, ‘Transition Without Justice? The Return of the Taliban and the Quest for Truth, Accountability, and Reparations’ (*Opinio Juris*, 8 September 2021) <<http://opiniojuris.org/2021/09/08/transition-without-justice-the-return-of-the-taliban-and-the-quest-for-truth-accountability-and-reparations/>> accessed 22 May 2022

claimants at coastal and inland frontiers, preventing them from seeking refuge. Significantly, the global fraternity should help enable the peaceful evacuation of persons who need and want to flee Afghanistan and neighboring countries again for freedom to really be practical and not merely fictitious. It must start with one of the most disadvantaged and at-risk individuals but must not be limited there.

However, talks of helping individuals and refugees seem appropriate merely on a political stage. In practicality, if we look at the intricacies of International Humanitarian Laws or International Commercial Laws, enforcing them in a country such as Afghanistan would be essentially a task in itself.¹⁹

You may be wondering why the authors have taken International Humanitarian Law and refugees' rights into question. To address this, the authors would like to state that commerce and trade devolve directly from the presence of human resources in action.²⁰ In the absence or detriment of human resources in the form of extensive human rights violations, trade and commerce also begin to decline to a great extent, as necessities are the only form of goods that would have utility in a nation as unstable as Afghanistan.

Also, conservative governments such as the one in Afghanistan usually do not favor implementing international laws in place. It would allow other developed nations (or even nations having a varied ideology) to indirectly interfere or object to the framework of their country. Hence, implementation becomes much more difficult owing to this administrative blanket. LDCs and fourth world nations are essentially captivated by the blanket either forcefully or deceptively.

INTERNATIONAL LAW AND PROSPECTIVE AVENUES

As the authors proceed onto the last section of this Article, it is imperative to understand and look into the benefits offered by international laws and bodies by way of regulations and how they outweigh the 'blanketing' done by the fourth world nations. There are many avenues that the fourth world countries miss out on, ranging from international trade and commerce to

¹⁹ *Ibid*

²⁰ *Ibid*

technological innovations and medical facilities. Let us look at some of them and how opening gates to these opportunities might or might not benefit the fourth world nations.

INTERNATIONAL TRADE FRAMEWORK

It is a fact that trade is an essential component of any economy. This inevitably translates into the country's balance of trade, which determines the country's competitiveness with other countries vis-à-vis wages and tariffs. Not only economically, but it is also well established that trade is imperative even from the non-economic viewpoint.²¹ The economic and non-economic benefits of trade, especially international trade, are enforced with the help of bodies like the World Trade Organization ("WTO"). After duly negotiating policies, the WTO regulates countries' trade policies through tools like sanctions. The overarching purpose of WTO is to facilitate the free flow of goods.²²

However, when fourth world nations and LDCs blanket themselves from membership of international bodies like the WTO and other International Treaties, it essentially means that such nations may or may not be compliant with free-trade policies. All nation-states, including every fourth world country, have resources that can be employed to manufacture goods and provide services that can be traded. However, if countries do not participate in international trade law, they will suffer immensely and not utilize their resources effectively and efficiently. Supposing the fourth world countries open themselves to the international trade laws and bodies, it will also signify that they have transparent and dedicated regimes that would positively impact the foreign investments that flow into the country.

An increased foreign inflow sets the whole cycle of the economy in motion. Once foreign investments start flowing, it transforms into infrastructural developments, which require human resources to build the infrastructure and run it. This, in turn, leads to increased quality of life and employment rates, leading to a better GDP. This cycle is essentially what will allow fourth world countries to jump the line and join other advanced economies.

²¹ Arnold King, 'International Trade Law' (*Econlib*)

<<https://www.econlib.org/library/Enc/InternationalTrade.html>> accessed 22 May 2022

²² 'What is the World Trade Organization' (*WTO*)

<https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact1_e.htm> accessed 22 May 2022

INTERNATIONAL LABOR LAWS

It is needless to mention that the fourth world countries are utterly poverty-stricken due to their under-development. Poverty forces the residents of these countries to take up any work as long as it allows them to earn something. Consequently, residents of fourth world countries are utterly exploited and paid meager wages, which does not allow them to escape poverty. The problem is compounded by the fact that fourth world countries have not opened themselves to international labor law regulations. Though organizations like the International Labor Organization (“ILO”) exist to set labor standards and protect laborers, fourth-world countries and their residents suffer by not being members of ILO. If the fourth world countries and LDCs were to become members of ILO and enforce labor laws, labor exploitation would reduce drastically since they would be able to earn wages that would allow them to do more than just survive.

However, as is with becoming a member of any international body, becoming a member of the ILO would entail introducing a set of new laws that are consistent with the ILO constitution and directives. Such a move would require a massive national shift in the ideology of the country, which is obviously a hurdle. At the same time, these nations will have to remember that they have much more power over the substance and interpretation of international norms than just about any other entity. Out of these considerations, it is indeed a simple step to the inference that nations can and must only be obligated with explicit permission, or, to put it another way, any alterations to international treaties need agreement and consensus.

INTERNATIONAL FINANCIAL ACCESS

Since fourth world countries are marginalized with an ever-depleting economy, international finance becomes an imperative tool to set the economy in motion. However, fourth world countries have not yet introduced international finance into their systems. Though there are numerous ways to do the same, the best possible way would be to allow foreign investments and, secondly, gain access to international financial bodies like the International Monetary Fund (“IMF”).²³

²³ Richard E. Bissell (n 1)

With the main aim of promoting international financial stability²⁴ along with international trade and employment, IMF is one of the most important international institutions which help countries prosper. This could mean jumping the line to become a more prosperous nation for the fourth world countries. With advancements in finance and how transactions are done, opening themselves up to international finance would also mean ushering in innovation and technology. In addition to utilising such modern technology for financial aspects, fourth world countries would also be able to use them in various other spheres like trade and production.

INNOVATION AND TECHNOLOGY

Given the numerous aforementioned characteristics of fourth world countries, it is evident that they do not have the modern technology, innovation, and infrastructure available. The fact implies that not much impetus or encouragement is given to innovation in such countries due to the absence of international laws like the Trade-Related Aspects of Intellectual Property Rights (“**TRIPS**”). Here, the problem rests in the fact that fourth world countries have not opened themselves to the international intellectual properties, which restricts innovation and trade. If the fourth world countries decide to open themselves up to this sphere, it will bring in opportunities for innovation, which will allow the countries to compete and place themselves on the world map.

In general, the trend and findings seem to be that the fourth world countries should open themselves to international law and bodies since that would open opportunities in terms of trade, technology, innovation, and financial access. The thrust of the argument is on the cycle that would be set off if even anyone international law was applied to the fourth world countries. With a significant slack in the economy, fourth world countries are unable to move forward due to their stagnant policies. And the only way out of the stagnancy is to apply international laws - to establish domestic laws and enforcement bodies, which will make enforcement or even promulgating of international laws a reality.

²⁴ ‘The IMF at a Glance’ (IMF) <<https://www.imf.org/en/About/Factsheets/IMF-at-a-Glance>> accessed 22 May 2022

CONCLUSION: A WAY FORWARD

Though the United States of America and China makes up 90% of the news today, there is a small part of the world that does not feature much due to their absence in the international arena. Despite their lack of presence in the global sphere, fourth world nations are an essential part of the world today. Currently, being amid poverty, low per capita income, high mortality rates, low life expectancy, and under-development, fourth world nations have unexplored resources and opportunities that could allow them and the world to move forward. Before looking at the possible solutions to the existing issues in international law, it becomes imperative to understand the fourth world nation-states from a present day perspective.

In the first section, the authors have argued that it would be an appropriate approach to consider fourth world nations as a part of the LDC group. Having humbly tried proving the same, and noting the similarities between fourth world nations and LDCs, it becomes obvious that the prosperity of fourth world nations will remain a utopian dream unless these fourth world countries imbibe public international law, or simply the international law.

Undoubtedly, such conditions are dominant in fourth world nations and LDCs, which often create a hurdle in solving even the problems which are deemed immoral on the international stage. Obtaining memberships to organizations like the World Trade Organization, becoming signatories to agreements like the Doha Agreement, and instituting bodies that would interact with other nations, would allow fourth world countries to open up their economies. Such opening up would have a direct and proportional impact on their employment, per capita income, infrastructure capacities, banking and financial capabilities, and innovation rates.

It is pertinent to understand why these so-called fourth world countries are lagging in the global race and why these nations have been on the list of non-promising countries on the international stage despite accelerated global growth and development. The developed countries claiming to have made efforts from time immemorial to uplift these countries seem to have made no credible difference. The point is, can a rich person ever know or feel what a poor is going through? Can a physically fit person having proper limbs understand what it feels like to be amputated? Can a person with normal eyes realize what it feels like to be blind?

Not to forget, Mr. Louis Braille, blinded at the age of three, invented the Braille language. This could not have been done precisely by a man who has his eyesight intact. Mr. Braille could not see, yet he saw and understood the pain of a blind person. He had the experience of both worlds, and hence he came up with a language that virtually remains unchanged even today.

This is what is needed - one needs to understand what these so-called fourth world countries are going through and find what we have been missing for centuries that has prevented us from integrating with these nation-states. Here comes the concept of *Diatopical Hermeneutics* - having one foot in one topos and another foot in another, having a perfect dialogue. The idea is that no culture is complete in itself, and understanding that completeness is an unachievable goal. On the contrary, what is essential is to understand the consciousness of reciprocal incompleteness. With their idea of evolved cultural values and practices, these developed countries can never imagine connecting with these fourth world countries in their lifetime. Such a notion of emancipation is flawed. It must be realized that one cannot decide what emancipation is and what is not for others. Every nation, irrespective of being a First-Second-Third-Fourth world country should have a voice for themselves. In this context, we can say that not any developed country; instead, the developing countries like India can pave and lead the way connecting both poles of the international set-up.

However, the authors understand and acknowledge that while it may be easy to say that international law is required in fourth world countries, there are numerous hurdles that need to be crossed. Hurdles like under-representation, lack of knowledge, and lack of resources make it difficult for fourth world countries to implement international law. Nonetheless, it is imperative to keep the end goal in view - the development of the fourth world countries. Only when these countries prosper will the lines between nation-states blur, helping the global fraternity to work together towards establishing a just and equitable global society.