

# FORENSIC AUDIT REPORT: THE GENESIS OF VOIDANCE

## SUBJECT: ILLEGALITY OF POLITICAL IMMUNITY

**DATE:** 2026-02-08 **STATUS:** VOID AB INITIO (Null from inception) **CLASSIFICATION:** JUS COGENS VIOLATION / ULTRA VIRES ACT **AUDIT TYPE:** INTERNATIONAL LAW FORENSICS

### PART I. THE GENESIS OF FRAUD

#### 1.1. Rex Non Potest Peccare — Feudal Substitution

**Source:** English Common Law, 13th-17th Centuries.

The Latin maxim "*Rex non potest peccare*" ("The King can do no wrong") originated as a derivative of the theological doctrine of the Divine Right of Kings. In the feudal system, the Crown was considered the source of law, and the monarch was the personification of the state.

**Critical System Failure (Legal Bug):** In a modern constitutional model, sovereignty belongs to the people (*popular sovereignty*), not the state apparatus.

- **Precedent:** *Chisholm v. Georgia* (1793), 2 U.S. 419. The U.S. Supreme Court established that in a republican form of government, citizens are "joint sovereigns," and the state cannot hold immunity against the will of the sovereign (the people).
- **Conclusion:** The retention of immunity in republican systems is a **misappropriation of feudal privilege** without legal title.

#### 1.2. Evolution of Dismantlement in Anglo-American Law

1. **Magna Carta (1215):** Article 61 (Security Clause) — The first historical limitation of absolute monarchical power by law.
2. **Petition of Right (1628):** Establishment of the Crown's liability before the law.
3. **Crown Proceedings Act 1947 (UK):** Total abolition of Crown immunity in civil and contractual matters, recognizing equality before the court.

### PART II. LOGIC OF IMPOSSIBILITY (ULTRA VIRES)

#### 2.1. Ultra Vires Doctrine (Beyond Powers)

**Axiom:** The State as a legal fiction is created solely for lawful purposes. No constitution delegates authority to commit international crimes (genocide, torture, aggression).

**Logical Chain of Evidence:**

1. Immunity *ratione materiae* protects only "official acts."
2. The commission of a *Jus Cogens* crime (e.g., torture) is by definition outside the scope of constitutional authority for any official.
3. Therefore, the crime is a **private act** acting under the color of law.

4. State immunity does not exist for private acts.

## 2.2. Nullity Formula

```
IF (Act == Jus_Cogens_Violation) OR (Act == Corruption)
THEN:
    Official_Capacity = NULL
    Immunity = VOID
    Jurisdiction = UNIVERSAL
```

## PART III. LEGAL "KILL SWITCHES" (INTERNATIONAL NORMS)

### 3.1. Jus Cogens (Peremptory Norms)

**Source:** *Vienna Convention on the Law of Treaties* (1969), Article 53.

"A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law (jus cogens)... A norm of jus cogens is a norm from which no derogation is permitted."

**Application:** Any national law granting amnesty or immunity for torture/genocide is **void ab initio** as it conflicts with a superior peremptory norm.

### 3.2. Rome Statute (ICC)

**Source:** *Rome Statute of the International Criminal Court* (1998), Article 27.

**Article 27 (1):** "This Statute shall apply equally to all persons without any distinction based on official capacity... official capacity... shall in no case exempt a person from criminal responsibility."

**Article 27 (2):** "Immunities or special procedural rules... shall not bar the Court from exercising its jurisdiction over such a person."

### 3.3. Nuremberg Principles (1950)

**Source:** UN General Assembly Resolution 177(II).

- **Principle III:** The fact that a person acted as Head of State or responsible government official does not relieve him from responsibility under international law.
- **Principle IV:** The fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility.

### 3.4. UNCAC (United Nations Convention against Corruption)

**Source:** *United Nations Convention against Corruption* (2003), Article 30(2).

"Each State Party shall take... measures... to establish... an appropriate balance between any immunities... and the ability to effectively investigate, prosecute and adjudicate offences established in accordance with this Convention."

**Audit:** Using immunity to block corruption investigations constitutes a **Material Breach** of treaty obligations.

## PART IV. FORENSIC PRECEDENTS (CASE LAW)

### 4.1. R v. Bow Street Metropolitan Stipendiary Magistrate, ex parte Pinochet Ugarte (No. 3) [1999] UKHL 17

**Court:** House of Lords (UK). **Subject:** Augusto Pinochet claimed immunity from extradition for torture. **Ruling:** Immunity *ratione materiae* does not extend to torture, as torture cannot be a legitimate function of a Head of State. **Quote (Lord Millett):**  
"International law cannot be supposed to have established a crime having the character of a jus cogens and at the same time to have provided an immunity which is co-extensive with the obligation it seeks to impose."

### 4.2. Prosecutor v. Charles Ghankay Taylor (SCSL-2003-01-I)

**Court:** Special Court for Sierra Leone (2004). **Ruling:** Immunity *ratione personae* does not apply before international criminal tribunals. Taylor was indicted while serving as the sitting President of Liberia.

### 4.3. Arrest Warrant Case (DRC v. Belgium) [2002] ICJ Rep 3

**Court:** International Court of Justice (ICJ). **Distinction:**

1. **Ratione Personae:** Absolute immunity *only* while in office (to ensure diplomatic function).
2. **No Immunity:**
  - Before international courts (ICC).
  - After leaving office (for international crimes and private acts).
  - If the State waives immunity (Waiver).

### 4.4. Prosecutor v. Omar Al-Bashir (ICC-02/05-01/09)

**Court:** International Criminal Court. **Ruling:** UN Security Council Resolution 1593 (2005) referred the situation in Sudan to the ICC, thereby removing any Head of State immunity, even for non-state parties to the Rome Statute.

## PART V. SYNTHESIS AND LEGAL VERDICT

### 5.1. Qualification of "Inviolability"

The institution of absolute inviolability regarding grave crimes qualifies as **Obstruction of Justice** and **Aiding and Abetting** criminal activity.

### 5.2. Financial Liability (Asset Recovery)

Based on the *Ultra Vires* doctrine and *UNCAC Art. 31 (Freezing, seizure and confiscation)*:

- Assets acquired through criminal activity under the guise of immunity are not state property.
- They are subject to confiscation and restitution without the application of sovereign immunities.

## PART VI. EXECUTIVE CONCLUSION

### Official Finding:

1. **Immunity is not absolute.** It is limited by functional necessity and does not cover crimes against international law.
2. **Jus Cogens prevails.** Norms prohibiting genocide, torture, and corruption are hierarchically superior to any national immunity laws.
3. **Principle of Responsibility.** Any person acting in an official capacity bears individual criminal responsibility for violations of international law.

### Primary Sources:

- Vienna Convention on the Law of Treaties, 1969, Art. 53.
- Rome Statute of the International Criminal Court, 1998, Art. 27.
- United Nations Convention against Corruption, 2003, Art. 30.
- Nuremberg Principles, 1950, UN General Assembly Resolution 177(II).