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Anthology : The Research

Peacful Conflict Resolution by United Nations

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Abstract

Quest for the peace has been one of the major reasons for the formation of the international organization. Because defeated by Napoleon in 1815, the European states were successful in development of peace up to 1914 (almost 100 years). The League of Nations came immediately after out of the I World War. Its primary aim was maintain peace in the world and solve all conflicts with peace, but it was also failed and broke out II world war, which was the result to the failure of the League, yet it was not regarded as a failure of the concept of international organization, it was regarded as a failure of an organization and hence, the decision to have a new international organization the UN was existed in 1945. But the makers of UN were very conscious about the peace that is way, they do stress on the peacefully methods of conflict resolution first and if peaceful methods do not work then organization thinks about coercive methods. This article will be explained about the methods of conflict resolution, which are written in the charter of UN.

Keywords: Conflict, United Nations, Peace, Methods, Organization

Introduction

Quest for the peace has been one of the major reasons for the formation of the international organization. Because defeated by Napoleon in 1815, the European states were successful in development of peace up to 1914 (almost 100 years). During these hundred years international politics was peaceful due to balance of power, Hague conventions, and dominant position of European states in international politics. Yet conflicts were remaining among states[1].

Each state has its own interests, values and needs, and is always conscious of the differences between its own interests the other states, which results into conflicts. Harold H. Lasswell defines conflict as: “in the widest sense of the word, conflict is a conscious competition and competitors become self conscious rivals or opponents[2].”

So conflicts are part of world politics, but I World War was a result of destructive conflict. The League of Nations came immediately after out of the I World War. The horrors of the World War convinced the people that war was not an effective method of settling disputes. It helped neither the conqueror nor the conquered. But after just almost 20 years, II World War broke in 1939 that showed the failure of League, because League had many weak points, such as absence of big powers in League like USA and Russia not members of League. Second, members did not have will to cooperate, lack of faith in League, lack of military force, freedom of resignations to members and not equal status of all members in League.

However, the failure of the League was not regarded as a failure of the concept of international organization, it was regarded as a failure of an organization and hence, the decision to have a new international organization the UN was existed in 1945[3].

The founders of the UN focused on reorienting international affairs away from aggression and unilateralism and towards cooperation and multilateralism. Article 1 of the Charter concisely states the organizations principal objective to maintain international peace and security and the way in which the goal is to be attained collectively, peacefully, and preventively. At the dawn of the twenty first century, the peaceful settlement of conflict is widely considered essential, not only in the interest of avoiding deadly armed conflict, but also for a host of corollary reasons.[4]

So long as states cannot rely on the peaceful resolution of their disputes, there can be no genuine reversal of world-wide arms competition; no adequate resources for the eradication of poverty; no proper respect for human rights or the environment; nor sufficient funds for health, education, the arts and humanities.[5]

The world has reached to the stage of destruction as terrorism, nuclear weapons race, and so many other conflicts have become danger for the peace and development of the world.

Aim of the Study

The research paper explains methods of conflict resolution of UN, first UN uses peaceful methods if it fails to solve problem, them it uses means of conflict resolution.

Conflict Resolution by Peaceful Means

With a view to replacing aggression with cooperation in international relations, the UN has championed both the norm and practice of the peaceful settlement of disputes. Article 2 of the Charter lays out the principles under which the UN and its members are required to pursue the aims of article, which states that all members have to see that international peace, security and justice are not endangered.

As noted by Bruno Simma, the principle of the peaceful settlement of disputes occupies a pivotal position within a world order whose hallmark is the ban on force and coercion[6]. This principle therefore creates certain obligations for member states and responsibilities for the UN's principal organs. States themselves bear primary responsibility for the pacific settlement of disputes, while the Charter enumerates institutional arrangements to facilitate the pursuit of this principle[7].

The Charter's emphasis on the peaceful settlement of disputes has been echoed and elaborated in a number of subsequent declarations and resolutions. The friendly relations declarations set out in GA resolution of October 1970, attempted to specify the scope and content of the principle of the peaceful settlement of disputes. The Manila Declaration on the peaceful settlement of international disputes of 1982, approved GA resolution of November 1982, provided more detailed exposition, as it defined the substantive duties of states in peaceful dispute settlement as well as the competencies of relevant UN organs. In resolution of November the GA appealed solemnly to all states to resolve conflicts and disputes by peaceful means[8]. Or particular significance is the December 1988 GA resolution on declaration on the prevention and removal of disputes and situations which may threaten international peace and security and on the role of the UN in this field featuring preventive measures. This resolution thus represents a departure from the more restricted scope of Article which addressed only existing disputes, not potential ones. Similarly, Boutros Ghali's recommendations in *An Agenda for Peace,* reaffirmed by GA as a resolution of December 1992, highlighted within the pacific settlement of disputes the importance of preventive diplomacy, fact-finding, and involvement of the GA and urged states to find early solutions to disputes through peaceful means.[9]

Measures for the Peaceful Settlement of Disputes

The Charter is very precise about the ways and means by which all member states must seek the peaceful settlement of disputes, with the use of force permitted only in self-defense. Despite the injunction to use exclusively peaceful means, states may resort to such counter-measures as are acceptable under international law and the principles of the Charter. However, that counter-measures are in some instances permitted does not negate the fundamental obligation to refrain from the threat or use of force.

The list in Article 33 (1) is not a prescriptive register of priorities but rather a set of options for realizing the peaceful settlement of disputes indeed, as Simma observes, Many of these procedures are rarely resorted or are even waiting for their first test of practice[10]. Several legal texts explain in detail each of the mechanisms put forward; particularly detailed is the manual developed by the UN's legal office, which provides comprehensive descriptions of each procedure[11].

UN uses several methods like negotiation, enquiry, mediation, conciliation, arbitration, international tribunals, and other peaceful means of corrective.

Negotiation

The tool of negotiation enjoys a special place among the pacific measures listed in article because negotiations are a universally accepted method of dispute resolution and possess several advantages. One important feature is flexibility: negotiations can be applied to conflicts of a political, legal, or technical nature. Moreover since only the concerned states are involved, negotiation empowers the parties themselves to steer the process and shape its outcome to deliver a mutually accepted settlement. A key disadvantage of negotiation is its inherent basis in compromise between the parties, a drawback which often leads to the imposition of a solution by the stronger over the weaker party.[12]

The UN legal office manual provides a step by step guide to the different types of negotiations as well as the phases, methods, and outcomes of each. In 1998 the GA adopted resolution, principles and guidelines for international negotiations, which underlines the duty of states to act in good faith in negotiations[13].

Inquiry or Fact-Finding

Two parties to a dispute may initiate a commission of inquiry or fact-finding in order to establish the basic information about the case, to see if the claimed infraction was indeed committed, to ascertain what obligations or treaties may have been violated, and to suggest remedies or actions to be undertaken by the parties. These findings and recommendations are not legally binding, and the parties ultimately decide what action to take. A commission of inquiry may usefully be employed in parallel with other methods of disputes resolution for instance, negotiation, or conciliation as factual clarity is an important factor in any dispute resolution strategy. In 1991, the GA adopted resolution which contains detailed rules for fact finding by organs of the UN, and the UN legal office manual explains in detail the process and phases of inquiry. It is worth noting that such commission precedes the UN, having already been provided for in the Hague conventions for the pacific settlement of international disputes of 1899 and 1907.

Good Office

When the parties to a dispute are not able to settle dispute through negotiation they had to resort to good office. In such case, a particular state either alone or with other states , may act as transmitting agency and bring about a conciliation between the disputant parties, The term good office implies that a third state tries to bring the conflicting parties together and suggests a settlement without actually participating in the negotiations. Such suggestions may not be accepted by the parties to the dispute. Thus in 1951 when Australian Government offered its good office to India and Pakistan for the settlement of their dispute, the offer was declined by Nehru on the ground the Australian good office were not needed at the stage[14]. During the Indo –Pakistan conflict of 1965 of Soviet Russia offered her good offices to the two countries on a conference table which was accepted by both the parties and ultimately led to the Tashkent Declaration of January 10, 1966.

Mediation

Under mediation, the third party either at its own initiative or at the request of the disputant parties assumes responsibility for the settlement of dispute. The mediator assumes the role of a middleman and tries to reconcile the opposite claims of the disputant parties. Thus the mediator actively participates in the disputes[15]. However, the suggestions made by the mediator are not binding on the parties. Dixon an Australian Judge was appointed as a mediator by UN in the Kashmir dispute between India and Pakistan. He was charged with the responsibility of helping in the preparation and supervision of the programme of demilitarization in the dispute area.

Conciliation

Conciliation combines fact-finding and mediation. A conciliation commission functions not only to engage in enquiry to out clearly the facts of the case but also to act as a mediator, to propose solutions mutually acceptable to the parties to the dispute. Such a commission may be a permanent body or it may be established by the parties to a particular dispute. The commission's proposals are not binding, but each party has the option of declaring unilaterally that it will adopt the recommendations. Several international treaties feature provisions for the systematic referral of disputes for compulsory conciliation. Often provision include the requirement that the parties first exhaust negotiation before reaching conciliation, and that, in turn, conciliation is an attempted before taking up arbitration or approaching an international tribunal.

The 1969 Vienna convention on the Law of Treaties articulated a procedure for the submission, by states, of request to the UNSG for the initiation of conciliation. On 11 December 1995, the GA adopted resolution, containing the UN model rules for the conciliation of disputes between states, which substantiates and clarifies conciliation procedures.

Arbitration

The precedent for arbitration emerged from the 1899 and 1907 Hague conventions, which states that the objective of international arbitration is the settlement of disputes between states by judges of their choice based on respect of the law. Arbitration represents a qualitative leap over the other measures; it necessitates the settlement of the dispute in accordance with existing international legal standards. The parties agree to submit the dispute to arbitration, and thereby commit to respect in good faith the outcome, which is binding.[16]

Arbitration has features similar to aspects of international tribunals; however, the former gives greater control to the parties, empowering them, for example, to appoint judges. Each party may appoint an equal number of judges, with one judge chosen by mutual agreement of the parties, with a view to guaranteeing parity in the proceedings. Arbitration is used particularly in disputes arising over territory and over differing interpretations of bilateral or multilateral treaties[17].

The most concrete achievement of the 1899 Hague peace conference was the establishment of the Permanent Court of Arbitration (PCA), located in the peace palace in The Hague, Which is accessible at all times, has competence in all arbitration cases submitted to it by agreement of the parties involved.

International tribunals

The term international tribunals refer to the ICJ and other courts with international jurisdiction. Depending on the definition employed, there are currently between seventeen to forty international courts and tribunals. Normally, the decision of an international tribunal is definitive and cannot be appealed .The advantage of permanent international tribunals over arbitral courts is that they are better situated than an ad hoc tribunal to become seized of a matter since they already exist.[18]

Regional Agencies

Besides UN there are regional agencies or organizations which play an important role in peaceful settlement of disputes like European Union (EU), Association for South East Asian Nations (ASEAN), South Asian Association for Regional Cooperation (SAARC), the Arab League (AL), the African Union (AU), the Economic Community of West African States (ECWAS), the Organization of American States (OAS), Organization of Petroleum Exporting Countries (OPEC). Also mentioned are the European and American human rights system as well as the African Charter on Human Rights (ACHR). In nutshell these organizations are playing important role for conflict resolution.

The UN's dispute settlement manual describes three categories of measures that have been employed by states to the end. The first category includes entirely original measures, based neither on an adaption nor on a combination of the listed measures. Examples include conventions and conferences, and the referral of a dispute to a political organ or non-judicial organ of an international organization[19].

The second category features those cases in which states have adopted the methods named in article 33. For example, the parties may agree in advance that the report of a conciliation commission will be binding rather than non-binding.

Third category contains the instances in which a single organ employs two or more of the listed measures. For example, a treaty may provide for the progressive application of a range of methods. Also, a single organ may be entrusted with both conciliation and arbitration.[20]

Coercive Means of Conflict Resolution

The UN is a multifaceted organization performing supervisory, informational and operational activities, the activities which have attracted maximum public attention, concern the maintenance of international peace and security. Although under normal circumstances the UN tries to establish international peace and security through peaceful means, but if SC shall determine the existence of any threat to peace, breach of peace or act of aggression and shall make recommendations, or decide what measures, shall be taken to restore international peace and security[21]. For this purpose the SC can recommended measures, not involving use of armed forces, to give effect to its decisions, but if these measures prove inadequate, it can take such action by air, sea or land forces as may be necessary to maintain or restore international peace and security. Such actions can include demonstrations, blockade and other operations by air, sea or land forces of the members. The determination has been made about the situation in the old State of Yugoslavia, about the situation in Somalia, about Libya's support for terrorism and[22], most recently, about the situation in Haiti. UN Charter's chapter VII provides UNSC to act aggressively if any conflict will be dangerous for world peace.[23]

Conclusion

It is stated that t he basic idea in the root of the conflict is disharmony generally between two individuals who indulge in violence based activities to serve their interests, for this they continuously try to establish their superiority by different means or ways. UN Chapter's defines two methods for conflict resolution, first is chapter VI and second is Chapter VII. Chapter VI peaceful methods contain of conflict resolution, such as negotiation, good office, conciliation, arbitration, facts inquiry, international court of justice, regional agencies, UN Officers and so on. Chapter VII deals coercive methods of conflict resolution, such as blockade the country which is against and danger for international peace and breaks complete or partial relation with it such as sea, rail, air, postal, telegraphic, radio and other means of communications. Even if UNSC finds that any conflict cannot resolve by these means, it can uses power and start a war against country and all members will respect UNSC's decisions.

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