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UNITED NATIONS ROLE IN RESOLUTION INTERNATIONAL CONFLICTS

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Abstract. In recent years ongoing international conflicts and border disputes intensified to an extent that certainly actualized a question of the role of the United Nations (UN) in the solution of these problems. Thereupon the objective of this article is to define the degree of influence of the United Nations and its precautionary effect on settlement of international conflicts at the present stage. The author makes the short analysis of intermediary activity of the United Nations and defines its legal basis. Besides, researcher considers the functionality specifics of the International Court of Justice (ICJ) of the United Nations and its actions aimed at the settlement of the territorial disputes and conflicts in the recent years.

The basic method of this research is the comparative-historical approach which is used to reveal positive or negative dynamics of the United Nations performance at the present stage. Now the United Nations make active efforts in the solution of many international conflicts and lowering their escalation. However, despite of a growing demand for the solution of conflicts in a judicial order, the most serious problems of the international character remain insoluble.

Nowadays the United Nations play a limited role in the settlement of the international problems. This is based on the fact that most parts of the conflicts evade UN resolutions which have only a recommendatory character. Therefore, the United Nations system needs certain reformation to reflect the new needs and realities in the world today. For the settlement of such challenging international conflicts it is necessary for all the countries to recognize jurisdiction of the UN ICJ.

Key words: United Nations, international conflicts, mediation, International Court of Justice, Israeli-Palestinian conflict, border disputes

Present international relations even after formal end of an epoch of alliance oppositions are still characterized by a high level of instability. Globalization process has led to expansion of a circle of participants of regional and international disputes: nowadays not only neighboring states are involved, but also global powers and international and regional organizations.

In present conditions globalization process has visually shown the deficiencies which have generated serious problems of disproportion and inequality. It is possible to support globalization, asserting that it is capable of leading to an increased level of prosperity, reduction of poverty and strengthening of freedoms. However fears of huge number of people cannot be disseminated completely if more responsible administration of this process is not exercised. Conflicts, poverty, terrorism, climate change, environmental degradation, underdevelopment, pandemic diseases, discrimination and injustice still sadden life of millions of people worldwide. In more than 80 countries the level of income «per capita» is lower, than ten or more years ago. All of it certainly is a source of social and interstate conflicts.

Now the geography of the international conflicts is very wide and their settlement is extremely problematic. However, the international community makes significant ef-

forts to reach the solution. In the recent years along with the preventive diplomacy and mediation even more often we see the use of legal methods of the settlement of international conflicts.

The resolution of the myriad of challenges and threats confronting mankind requires urgent and concerted action by the international community. Because of its universality, the United Nations commands the requisite legitimacy and moral authority to provide guidance and leadership in addressing those threats and challenges [Vayrynen 1985].

COLD WAR PERIOD

During the Cold War period the United Nations were de-facto a meeting place and a point of discussion in search of balance between the opposing Powers [Bauwens, Reyhler 1994]. The Korean War, Suez Canal Crisis and the UN operation in Congo were the most important examples, which showed that the UN became an arena of ideological struggle between the two blocs [Latif 2000].

In other words, most international conflict between 1945 and 1989 were of the traditional interstate kind resulting from incompatible interests over economic, military or territorial issues. For example, The UN played a significant role in mediating an end to the Iran-Iraq war and assisting with the implementation of Resolution 598 in 1987, which provided for a cease-fire and the deployment of unarmed UN military observer force [Hampson 2003].

Also, the overwhelming majority of conflict in the period of the Cold War took place between Third World countries where the great powers had been involved on opposite sides and often encouraged to continue the conflict [Hampson 1990]. These conflicts were exacerbated by the ideological divide, that for decades gave rise to so much distrust and hostility and prevented any effective international steps from being taken [Bercovitch 1995].

After the end of the Cold War the conditions under which UN peacekeeping operations were deployed qualitatively changed. Firstly, the number of conflicts increased significantly. Civil wars took place not only in the countries of Central and Eastern Europe, but also in the Central Asian states, the Middle East, Africa and Southeast Asia [Ratner 1995]. Secondly, these bear a significant amount of cruelty against the civilian population. New historical circumstances have put the UN up against new challenges, requiring constant readiness to settle ethnic and religious conflicts in multi-ethnic and multi-confessional states [Krupyanko 2006].

The Organization managed to support decolonization leading to the independence of a large number of new States and to mitigate, and even at times resolve, regional, bilateral and civil conflicts in a context that was nonetheless marked by severe ideological confrontation. At the same time, United Nations agencies made an important intellectual, political and judicial contribution to the universal recognition of human rights and strengthening cooperation for development and regional economic integration. Those advances constituted fundamental progress towards empowering the rule of law, which itself provides a favorable framework and is the best guarantor of human rights and peaceful international cooperation. It is therefore imperative that the United Nations of the twenty-first century respond effectively to present realities and effectively handle future challenges.

CONFLICT RESOLUTION

During the session of 2011—2012 the Assembly adopted the landmark Resolution 65/283 and Resolution 66/291 on mediation that recognizes its growing usefulness as a means of preventing disputes from escalating into conflicts and as a cost-effective tool in the peaceful settlement of disputes and the prevention of conflicts¹. In addition, the fundamental components of the solution to the conflict exist in the other documents and resolutions of the United Nations. The components of the solution are also endorsed in resolutions of regional organizations: the League of Arab States, the Organization of Islamic Cooperation, the Non-Aligned Movement and the African Union. They can also be found in the statements of the European Union and the international Quartet.

Many times the United Nations mediated in the settlement of the Israeli-Palestinian and Nagorno-Karabakh conflicts, Cyprian issue and others.

During the period 1947—2012 the United Nations has accepted important resolutions concerning Arab-Israeli conflict. In 1947 United Nations have created Special Committee on Palestine. That Committee came up with the proposal for a two-State solution — one predominantly Jewish and the other predominantly Arab, living side by side — that ultimately resulted, in November 1947, in the passage of Resolution 181 (II) setting out the Partition Plan. However, not all of those who should have supported that vision were prepared to do so, and the people of the region have suffered for seven decades as a result.

Even in those early difficult days, however, the principle of collaboration between the two parties was seen as an inherent necessity, as reflected in the elaboration of a plan for economic union between the two sides. While Resolution 181 (II) has never been fully implemented, the principle — the idea that the two parties need to work together to achieve their mutual and intertwined destinies and potential — has survived as an essential ingredient in successive efforts to find an elusive peace².

After that Security Council adopted four important resolutions 194 (III), 242 (1967), 338 (1973), and 1397 (2002). Security Council resolution 1397 (2002) called on the Israeli and Palestinian sides and their leaders to cooperate in the implementation of the Tenet work plan and Mitchell Report recommendations with the aim of resuming negotiations on a political settlement³.

The following year, 2003, the Middle East Quartet was established. It developed the road map, which was a performance-based, goal-driven plan covering peace, security and humanitarian areas. Later that year, Security Council Resolution 1515 (2003) formally endorsed the Quartet road map, while calling on the parties to fulfil their obligations under the road map in cooperation with the Quartet and to achieve the vision of two States living side by side in peace and security⁴.

¹ Strengthening the role of mediation in the peaceful settlement of disputes, conflict prevention and resolution. URL: <http://peacemaker.un.org/node/487> (accessed 15.05.2016).

² Resolution 181 (II). Future government of Palestine. URL: <https://unispal.un.org/DPA/DPR/unispal.nsf/0/7F0AF2BD897689B785256C330061D253> (accessed 15.05.2016).

³ UN Security Council Resolution 1397 (2002). URL: <http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/un%20security%20council%20resolution%201397.aspx> (accessed 15.05.2016).

⁴ United Nations Security Council resolution 1515 (2003). URL: https://en.wikipedia.org/wiki/United_Nations_Security_Council_Resolution_1515 (accessed 15.05.2016).

Resolution 1850 (2008) underscored the Council's explicit support for the negotiations undertaken in Annapolis in 2007 and its commitment to the irreversibility of the bilateral negotiations. That resolution reaffirmed international support for the Quartet principles and supported the determination of both parties to reach their goal of concluding a peace treaty resolving all outstanding issues, without exception. It also called on both sides to refrain from any steps that could undermine confidence or prejudice the outcome of negotiations⁵.

However, until now given conflict remains unsettled. The similar situation is observed and in other permanent conflicts — Nagorno-Karabakh and Cyprian issues. The sides of conflict ignore all the decisions adopted by Security Council that is a principal cause of insolvability of conflicts.

Therefore, four years ago, the United Nations held its first-ever High-level Meeting on the Rule of Law. It resulted in a consensus Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels (Resolution 67/1). That document recognizes that the international community has the institutions, working methods and relationships to make the rule of law relevant to peace and security, human rights and development. One of those institutions is none other than the International Court of Justice (ICJ)⁶.

INTERNATIONAL COURT OF JUSTICE

The international community now has over 90 years of experience with the judicial settlement of disputes. Adjudication or judicial settlement of disputes is one among a range of existing UN-Charter based mechanisms to resolve conflicts [Mollel 2009]. The key role in that regard was assigned by the Charter to the International Court of Justice, which is one of the six main organs of the United Nations and its principal judicial mechanism. Through its activities, the Court is an important agent for upholding and promoting the rule of law on the international level and in relations between states. It has the important and noble role of determining existing law and rendering justice between states.

The dual character of the ICJ as the principal judicial organ of the United Nations and court of unique and universal jurisdiction enables it to render impartial decisions in the peaceful settlement of disputes. The Court's judgements and advisory opinions have had salutary effects on maintenance of peace and security in all regions [Fedorov 2007].

As for the advisory opinions, besides the Security Council and the General Assembly — which under article 96, paragraph 1 of the Charter UN are authorized to request advisory opinions from the Court on any legal question — the Economic and

⁵ United Nations Security Council resolution 1850 (2003). URL: http://mfa.gov.il/MFA/ForeignPolicy/Peace/MFADocuments/Pages/United_Nations_Security_Council_resolution_1850.aspx (accessed 15.05.2016).

⁶ Declaration of the meeting at the high-level General Assembly on the rule of law at the national and international levels. URL: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N12/478/68/PDF/N1247868.pdf?OpenElement> (In Russ.) (accessed 15.05.2016).

Social Council, the Trusteeship Council, the Interim Committee of the General Assembly and international organizations have used the services of the Court. Consequently, due to its independence and impartiality, the International Court of Justice has established itself as the ultimate judicial body of the United Nations system⁷.

However, the influence of the Court goes well beyond the judgments and opinions it issues. Many disputes have been resolved early by the mere fact that one party suggested submitting the dispute to the Court. In addition, practice shows that the disputes submitted to the Court have sometimes been resolved not by a decision of the Court, but simply because preliminary measures have helped to resolve them.

In that respect, one can cite as an example the case of *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)* where, following the Judgment of the Court, the two parties «were under obligation to one another to make reparation for the injury caused. It decided that, failing agreement between the parties, the question of reparation would be settled by the Court and reserved for this purpose the subsequent procedure in the case. Since then, the parties have transmitted to the Court certain information concerning the negotiations they are holding to settle the question of reparation, as referred to in points (6) and (14) of the operative clause of the judgment and paragraphs 260, 261»⁸. Similarly, Ecuador and Colombia thanked the Court for its contribution to the amiable resolution of their dispute on the aerial spraying of herbicides.

Also the Court held hearings on three requests for provisional measures: in October 2013, in the case *Certain Activities carried out by Nicaragua in the Border Area*, which was joined with the case *Construction of a Road in Costa Rica along the San Juan River*; in November 2013, in the case *Construction of a Road in Costa Rica along the San Juan River*; and in January 2014, in *Questions relating to the Seizure and Detention of Certain Documents and Data*⁹. Then, in March 2014, it held hearings on the merits in the case *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*¹⁰.

Border disputes are an important part of the activity of the Court, and over the past decade, maritime disputes have become increasingly important in that category. One example is the case *Maritime Dispute (Peru v. Chile)*, on which the Court delivered its Judgment on 16 January 2008¹¹. Other cases, still pending, include that *Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia)*, *Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia*

⁷ Charter of the United Nations. Chapter XIV. The International Court of Justice. URL: <http://www.un.org/en/sections/un-charter/chapter-xiv/index.html> (accessed 15.05.2016).

⁸ *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*. URL: <http://www.icj-cij.org/docket/files/116/10455.pdf> (accessed 15.05.2016).

⁹ *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)*. URL: <http://www.icj-cij.org/docket/index.php?p1=3&p2=2&case=150> (accessed 15.05.2016).

¹⁰ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*. URL: <http://www.icj-cij.org/docket/files/118/7125.pdf> (accessed 15.05.2016).

¹¹ *Maritime Dispute (Peru v. Chile)*. URL: <http://www.icj-cij.org/docket/files/137/14385.pdf> (accessed 15.05.2016).

beyond 200 nautical miles from the Nicaraguan Coast (Nicaragua v. Colombia)¹² and the case recently instituted by Somalia against Kenya on Maritime Delimitation in the Indian Ocean (Somalia v. Kenya), which concerning the two States common maritime boundary¹³. Earlier in 2001 the court has resolved a border dispute between Bahrain and Qatar¹⁴.

Bringing a dispute before the Court usually contributes to defusing tensions between States, in particular in situations of competing claims to sovereignty or maritime zones. If the parties are unable to resolve such matters through negotiation to their satisfaction or to find a creative solution, such as joint management and exploitation regimes, the Court remains available to assist them by adjudicating the dispute on the strength of their legal arguments and evidence in accordance with international law.

During the 2015—2016 judicial year the ICJ was seized of 7 new contentious cases and handed down 13 orders¹⁵. That shows that the Court is becoming increasingly sought out on various topics concerning various territorial and maritime disputes, violations of territorial integrity and sovereignty, genocide, environmental damage and the conservation of biological resources, the interpretation and implementation of international conventions and treaties, requests for a halt to the nuclear arms race and so on. All that testifies to a very positive assessment and a high degree of satisfaction, trust and efficiency, which contribute to the universality of the Court.

MANAGING INTERNATIONAL CONFLICTS

It is necessary to note that in the early years of the United Nations, there was stronger adherence to the compulsory jurisdiction of the Court than what we see today. In 1948, out of 58 States Members of the United Nations, 34, including four out of the five permanent members of the Security Council, recognized the compulsory jurisdiction of the Court, or some 59% of the United Nations membership at that time, as compared to today's rate of 34%, or 67 States, including only one of the five permanent members of the Security Council, out of 193 Member States.

The peaceful settlement of international disputes is an essential purpose of the United Nations [Racic 2000]. That is the reason that the role of the Court in maintaining international peace and security and in promoting the rule of law on the international level is essential. It is the responsibility of the United Nations and its States Members to support the Court in carrying out its tasks. That calls for the United Nations to ensure that the Court is able to continue working effectively and objectively, with complete legal and procedural independence on the cases subject to its consideration. That is pos-

¹² Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 nautical miles from the Nicaraguan Coast (Nicaragua v. Colombia). URL: <http://www.icj-cij.org/docket/files/154/18956.pdf> (accessed 15.05.2016).

¹³ Maritime Delimitation in the Indian Ocean (Somalia v. Kenya). URL: <http://www.icj-cij.org/docket/files/161/18810.pdf> (accessed 15.05.2016).

¹⁴ Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain). URL: <http://www.icj-cij.org/docket/files/87/7021.pdf> (accessed 15.05.2016).

¹⁵ Judgments, Advisory opinions and Orders 2015—2016. URL: <http://www.icj-cij.org/docket/index.php?p1=3&p2=5> (accessed 15.05.2016).

sible only if the Court is guaranteed the necessary resources to comply with its mandate, taking into account the substantive increase in its workload.

In the recent years, the United Nations has given even greater importance to strengthening national capacities to prosecute the crimes covered by the Rome Statute. This is reflected in the 2013/2014 report, which details the various technical assistance activities that have been organized in the framework of the United Nations. The report also notes the growth in recent months of the Court's cooperation with the countries of Latin America — organizing numerous seminars and meetings of experts and with the European Union¹⁶.

However, seventy years on, through mediation efforts and good offices, conciliation, arbitration and peace missions, the United Nations has made a considerable contribution to the pacification of international relations. Yet, although commendable progress has been achieved, threats to peace and security remain worrisome and have radically evolved.

That is the case in northern Mali, where organized and heavily armed terrorist groups, living off illicit trafficking of all kinds, are occupying two thirds of the country, sowing despair among the population and destroying symbols of the world's cultural heritage.

The stalemate in resolving the Israeli-Palestinian conflict is also deeply troubling. The peace process is not moving forward, and the chain of violence has not been broken. Until the Arab-Israeli conflict is resolved. That is the central and vital issue to the people of the entire the Middle East region, and reaching a just solution is the key for bringing peace and stability to the whole area. The situation in Syria continues to be a source of serious danger and threats for regional and global safety. More than twenty years the conflict in Nagorno-Karabakh remains unsettled. Arrangements on situation resolution in Ukraine are not carried out. At various times the United Nations accepted many resolutions under these conflicts. However, none of them are resolved until now. In this connection, UN activity always was exposed to criticism from several countries and international organizations.

The United Nations have undergone phases of reformation since its foundation in 1945 [Luck 2003]. The majority of reforms of the United Nations have been focused on change of its bureaucratic structure (Security Council reform, UN Secretariat Transparency reform, Financing reform, Creation of United Nations Parliamentary Assembly and others) rather than on substantial issues.

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¹⁶ Report of the Security Council. 1 August 2013 — 31 July 2014. URL: http://www.un.org/en/ga/search/view_doc.asp?symbol=A/69/2 (accessed 15.05.2016).

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РОЛЬ ООН В РАЗРЕШЕНИИ МЕЖДУНАРОДНЫХ КОНФЛИКТОВ

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В последние годы наблюдается обострение перманентных конфликтов, а также усиливается рост конфронтации государств на международной арене, что безусловно вновь актуализирует вопрос о роли ООН в области разрешения международных кризисов. В этой связи целью статьи является определение степени влияния ООН на процесс урегулирования международных конфликтов на современном этапе. Автором делается краткий анализ посреднической деятельности ООН, определяется ее правовая база. Кроме того, рассматривается специфика функционирования Международного суда ООН и разрешенные им территориальные споры за прошедшие годы. Основным методом исследования является сравнительно-исторический подход, использующийся для выявления динамики функционирования ООН на современном этапе.

В настоящее время ООН активизирует усилия в решении ряда международных кризисов, а также пытается снизить их эскалацию. Однако до настоящего момента наиболее серьезные международные конфликты остаются неразрешенными, что может быть доказательством недостаточной эффективности организации в решении данных вопросов.

Ключевые слова: ООН, международные конфликты, посредничество, Международный суд ООН, палестино-израильский конфликт, территориальные споры

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