

THE PRINCIPLE OF PEACEFUL SETTLEMENT OF INTERNATIONAL DISPUTES

*Marius Valeriu PĂUNESCU**
*Alexandru Daniel PISICĂ***

International peace and security is one of the goals of the United Nations for which the entities that take part in international relations have to ensure permanent cooperative resources for the peaceful settlement of any dispute.

Knowing the fact that without solutions through the means of peaceful settlement of disputes, there is no other option than the escalation of conflict and the use of force, the United Nations has given a special attention particularly to the promotion of the principles of international law that provide enough flexibility to overcome any deadlock.

A principle of major importance is the principle of the settlement of international disputes by peaceful means. The permanent appeal of this principle in many resolutions and statements offered throughout time, not only by the United Nations, but also by other regional organizations, has the unique purpose of the strengthening international order based on the prohibition of force and coercion in the international relations. In this context, there is only one exception – the right to self-defense, a situation in which the use of force is allowed but without denying or neglecting the obligations to respect international law and justice.

The purpose of this article is to identify and present the most important official documents, resolutions and statements of the United Nations and other regional organizations that operate with the principle of peaceful settlement of disputes, and to highlight its connection with the other principles of international law as the principle of refraining from the threat or use of force in international relations, the principle of non-intervention in internal or external affairs of States, the principle of sovereign equality of States, and the principle of good faith in international relations, which all together sustain the goal of not endangering of international peace, security and justice.

Keywords: dispute; international law; principle; United Nations; resolution; peaceful settlement.

Introduction

The rule-based international political order, as it has been developed for more than seven decades of the existence of the United Nations (UN), has had to face many crises and challenges during the tumultuous period of the Cold War, but also in the Post-Cold War period, characterized by greater stability which favored the construction of peace and prosperity especially in the Euro-Atlantic area.

Nowadays, upon the 30th anniversary of the fall of the Berlin Wall, the international security, based on an international legal order of liberal inspiration, is in an arduous process of adaptation and consolidation that could generate a deep and extended attachment, from the part of all actors involved in international relations to the principles of freedom, democracy and respect for human

rights and fundamental freedoms, as well as the rule of law.

Threats to nowadays world, such as: terrorism, organized crime, refugee flows, ethnic and religious fundamentalism, nuclear proliferation, global warming, environmental degradation, desertification, natural disasters, create many problems of a cross-border nature that are difficult, if not even impossible to be managed by sole state actors. In contrast, the multilateral framework of the international organizations which provides multifold dialogue, cooperation and action, remains a valuable tool for the states under the pressure of concurrent threats to find out a suitable response. However, it is more provocative compared to the one provided by each state and weaker in terms of speed of response to the challenges of today's peace and security issues.

In this volatile and unpredictable security environment in which the rules of international society are questioned at least from the perspective of what the entities that create rules of public international law and customary law are, as well as what subjects of international law are still obeying the rules, there is a strong need to recall

* "Carol I" National Defence University

e-mail: paunescu.marius@unap.ro

** "Carol I" National Defence University

e-mail: danielpisica@yahoo.com

the principle of the peaceful settlement of disputes and to emphasize the huge effort made by the international community to strengthen its meaning and increase its relevance. There are at least two arguments in this regard. Firstly, in the absence of the peaceful settlement of disputes that consolidate the provisions of Chapter VI of the Charter of the United Nations, there is only one solution – the application of the provisions of Chapter VII of the Charter of the United Nations – which consist either of political and diplomatic sanctions or actions by air, sea, or land forces, situations that have lately proved increasingly unproductive in the steps of restoring international peace and security in a world of accelerated interdependencies. Secondly, since the Millennium Declaration and, later, the 2030 Agenda Declaration of the United Nations which have been concentrated the international public interests to peace, security, justice and sustainable development, the principles of non-violent action in international relations have been placed in undeserved shadow.

The United Nations Millennium Declaration¹, adopted by the General Assembly on September 8, 2000, aimed to build a new framework for multinational cooperation that would renew universal aspirations for international unity and solidarity. The Millennium Development Goals for the year 2015 laid the foundation of an international cooperation focused on 8 concrete goals: eradicate extreme poverty and hunger; achieve universal primary education; promote gender equality and empower women; reduce child mortality; improve maternal health; combat HIV/Aids, malaria and other diseases; ensure environment sustainability and global partnership for development. Those goals were set with the aim to improve peace and security, human rights and governance, economic and social conditions.

Then, through the 2030 Agenda for Sustainable Development, the United Nations militates for a world in which justice, equality in rights, equity and social inclusion are built, developed and strengthened together. In fact, the 2030 Agenda² is a universal call to action to protect the planet and ensure peace and prosperity for all people, pursuing no less than 17 Sustainable Development Goals: no poverty; zero hunger; good health and well-being; quality education; gender equality; clean water and sanitation; affordable and clean energy; decent

work and economic growth; industry, innovation and infrastructure; reduced inequalities; sustainable cities and communities; responsible consumption and production; climate action; under-water life; life on land; peace, justice and strong institutions; partnerships for the goals.

Within this framework of sustainable international development, the principle of peaceful settlement of international disputes finds its most important conceptual emphasis before the period of the Third Millennium, in the content of the UN Charter, in some declarations and resolutions of the UN General Assembly, as well as in a few other associated principles which were stated also by other regional organizations in their foundation treaties such as Pact of the League of Arab States (Cairo, 1945), American Treaty on Pacific Settlement ("Pact of Bogota", 1948), European Convention for the Peaceful Settlement of Disputes (1957) and Conference on Security and Co-operation in Europe Final Act³ (Helsinki, 1975).

Charter of the United Nations

The Charter of the United Nations of June 26th 1945, provides in Article 1, paragraph 1 the most important argument for respecting the principle of peaceful settlement of international disputes, by presenting one of the purposes of the United Nations, that of taking "*effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace*".⁴

Also, the peaceful settlement of international disputes is strengthened in the next article which states that the Organization and its Members shall settle "*their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered*"⁵, and the possibilities of peaceful settlement are presented in Chapter VI (Peaceful settlement of disputes): negotiation, enquiry (fact-finding), mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or by any other peaceful means that may be chosen by the parties to settle a dispute.

From the aforementioned provisions, one could express the opinion that only states would have the obligation to settle disputes peacefully because other entities participating in the relations that are developed within the international society do not have this obligation expressly included in the Charter. However, the principle of peaceful settlement of disputes is not limited only to states, but it is also applicable to those disputes involving other entities participating in international relations, including for example international organizations, national liberation movements within the colonial context, and by the virtue of the right to self-determination.

Therefore, States and entities involved in a dispute must implement the principle of peaceful settlement of disputes in full accordance with the purposes and principles of the United Nations, with the principles of international law, so that, in their actions, they may refrain from any susceptible act, which could aggravate the situation that would endanger peace, international security and justice.

Resolutions and declarations of the General Assembly of the United Nations

The principle of peaceful settlement of international disputes has been reaffirmed in a significant number of resolutions of the UN General Assembly, among which we mention: Resolution 2627 (XXV) of October 24, 1970 with the Occasion of the Twenty-fifth Anniversary of the United Nations, Resolution 2734 (XXV) of December 16, 1970 on the Strengthening of International Security and Resolution 40/9 of November 8, 1985 on the Solemn Appeal to States in conflict to cease armed action forthwith and to settle disputes between them through negotiations, and to States Members of the United Nations to undertake to solve situations of tension and conflict and existing disputes by political means and to refrain from the threat or use of force and from any intervention in the internal affairs of other States.

In Resolution 2627 (XXV), the General Assembly affirms its readiness to make sustained efforts for the development of relations between states based in particular on the principle of sovereign equality of States, the principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State,

the principle that they shall settle their disputes by peaceful means, the duty not to intervene in matters within the domestic jurisdiction of any State, the duty of States to cooperate with one another in accordance with the Charter, and the principle that States shall fulfill in good faith the obligations assumed by them in accordance with the Charter.⁶

Resolution 2734 (XXV) urges states to make maximum use of the means and methods offered by the United Nations Charter for the peaceful settlement of any dispute or situation that could endanger the maintenance of international peace and security.⁷ This resolution encourages any initiative or contribution that can bring improvements to the ways of implementing peaceful means of dispute resolution.

In Resolution 40/9⁸, the General Assembly reaffirms its conviction that resorting to the threat or the use of force in conflicts between States can only aggravate the international situation and make the solution of problems even more difficult, as well as the interest of the Organization to encourage States to exert maximum efforts in applying the principle of peaceful settlement of disputes as the only viable solution to the long-term peaceful settlement of any dispute.

Also, the principle of peaceful settlement of disputes is affirmed in a series of very important declarations that have contributed more broadly to the consolidation of the principles of the public international law: Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (1970)⁹, Manila Declaration on the Peaceful Settlement of International Disputes (1981)¹⁰, Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in This Field (1988)¹¹, Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security (1991)¹².

In all these declarations, the UN General Assembly was focused on reorienting international disputes away from aggression and unilateralism toward partnership and multilateral cooperation by underlining the value of the principle of peaceful settlement of disputes between States in the context of general effort not to jeopardize international peace, security and justice.

Also, this principle is of great interest at the level of the United Nations, not only from the perspective of avoiding escalation of armed violence or a bloody armed conflict, but also from the perspective of the need to counter extremist ideologies which generate security threats and challenges on a global scale such as terrorism and hate.

By invoking and repeating this principle of peaceful settlement in numerous resolutions and declaration of the General Assembly, the UN indirectly seeks to strengthen a world order in which the foreign policy of states and other international entities is not exercised on the basis of coercion and use of force, with only one exception – the acts in accordance with the right to self-defense. But we do not have to forget that even in these exceptional situations of legitimate self-defense that justify the use of the armed forces there is no statement which negates the fundamental obligation of any State or any other entity to carry on in good will the obligation to refrain in its actions from the use force.

Related links of the principle of peaceful settlement of disputes

Applying the principle of peaceful settlement of disputes in international relations is closely linked to the valorization of other principles of action in international affairs, among which we mention: the principle of refraining from the threat or use of force in international relations, the principle of non-intervention in internal or external affairs of States, the principle of sovereign equality of States and the principle of good faith in international relations.

Principle of refraining from the threat or use of force in international relations

The link between the principle of peaceful settlement of disputes and the principle of non-use of force in international relations is highlighted in the Manila Declaration, for two times, both in the preamble and in the content of the solemn declaration, where it is declared that “neither the existence of a dispute nor the failure of a procedure of peaceful settlement of disputes shall permit the use of force or threat of force by any of the States parties to the dispute”¹³, in the Pact of the League of Arab States, in which it is affirmed that “the recourse to force for the settlement of disputes

between two of more member States shall not be allowed”¹⁴, in the American Treaty on Pacific Settlement, which testifies that the contracting parties “agree to refrain from the threat or the use of force, or from any other means of coercion for the settlement of their controversies, and to have recourse at all times to pacific procedures”¹⁵, as well as in the Helsinki Final Act of the Conference for Security and Cooperation in Europe¹⁶ whereby the participating states commit themselves to refraining in their mutual relations, as well as in their international relations in general, from “the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations and with the present Declaration. No consideration may be invoked to serve to warrant resort to the threat or use of force in contravention of this principle”¹⁷.

Principle of non-intervention in internal or external affairs of States

The interrelation between this principle and the principle of peaceful settlement of disputes is recognized in article 5 of “Pact of Bogota”, and reiterated in paragraph 5 of the preamble of the Manila Declaration and in the Helsinki Final Act, point 6, section I, where it is specified: “The participating States will refrain from any intervention, direct or indirect, individual or collective, in the internal or external affairs falling within the domestic jurisdiction of another participating State, regardless of their mutual relations. They will accordingly refrain from any form of armed intervention or threat of such intervention against another participating State. They will likewise in all circumstances refrain from any other act of military, or of political, economic or other coercion designed to subordinate to their own interest the exercise by another participating State of the rights inherent in its sovereignty and thus to secure advantages of any kind. Accordingly, they will, inter alia, refrain from direct or indirect assistance to terrorist activities, or to subversive or other activities directed towards the violent overthrow of the regime of another participating State.”¹⁸.

Principle of sovereign equality of States

The links between this principle and the principle of peaceful settlement of disputes is highlighted in the Manila Declaration, in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, which proclaims that States have equal rights and duties and are equal members of the international community, "notwithstanding differences of an economic, social, political or other nature"¹⁹, as well as in the Helsinki Final Act where we find an even wider interpretation: "The participating States will respect each other's sovereign equality and individuality as well as all the rights inherent in and encompassed by its sovereignty, including in particular the right of every State to juridical equality, to territorial integrity and to freedom and political independence. They will also respect each other's right freely to choose and develop its political, social, economic and cultural systems as well as its right to determine its laws and regulations."²⁰

Principle of good faith in international relations

Good faith and cooperation are two essential attributes that must guide the behavior of states in international relations. Good faith is a state of mind, adopted by an international actor both in the exercise of rights and freedoms within the international society, and in the process of the accomplishment of international obligations, that express honest and fair approach in international affairs. Cooperation consists of actions undertaken voluntarily by a state, together with one or more states participating in international relations, in order to achieve common goals.

The Manila Declaration refers to the duty of states to "act in good faith"²¹ in accordance with the purposes and principles enshrined in the Charter of the United Nations, the need to "seek in good faith"²² an early and equitable settlement of international disputes, the need to "implement in good faith"²³ the provisions of the agreements obtained by the means of peaceful settlement of disputes, the need to "fulfill in good faith"²⁴ the obligations assumed in conformity with the Charter, and to observe and promote in good faith the provisions of Manila Declaration.

Good faith is also found in the Helsinki Final Act, and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, where there is a clear statement on the obligation for every State to fulfill in good faith: "the obligations assumed by it in accordance with the Charter of the United Nations. [...] its obligation under the generally recognized principles and rules of international law. [...] its obligations under international agreements valid under the generally recognized principles and rules of international law"²⁵.

Conclusions

The principle of peaceful settlement builds the most important international institutional framework that enables States and international entities to find solutions to their disputes and carry on the fundamental purpose of the United Nations – preserving international peace and security.

The right function of the principle of peaceful settlement of disputes in international affairs cannot have lasting and constructive effects without taking into account the role of other principles of international law, such as the principle of refraining from the threat or use of force in international relations, the principle of non-intervention in internal or external affairs of States, the principle of sovereign equality of States, and the principle of good faith in international relations.

Conflict prevention, being a fundamental activity of the United Nations in accordance with Chapter VI of the UN Charter, is accomplished to great extent through the principle of peaceful settlement of disputes, which cultivates a shifting paradigm of the foreign policy of States from unilateralism and aggression towards a policy of cooperation, good faith and multilateralism. What is more, this principle acts as an inhibitor of violence that could lead to an international armed conflict, but also as an obstacle for spreading of extremist ideologies, terrorism, hatred and other related activities.

By invoking and repeating this principle in its many resolutions and declarations, the UN seeks to encourage states and other international entities to actively participate in promoting and applying the principles of international law in order to strengthen an order in international society based

on the prohibition of force and coercion, as well as to guarantee the fundamental rights and freedoms, including here the right to individual and collective self-defence.

NOTES:

1 ***The General Assembly, 52/2. *United Nations Millennium Declaration*, September 8, 2000, available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/Millennium.aspx>, accessed September 20, 2019.

2 ***The General Assembly, 70/1 *Transforming our world: the 2030 Agenda for Sustainable Development*, 25 September 2015, p. 14/35, available at: https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_70_1_E.pdf, accessed September 20, 2019.

3 Conference on Security and Cooperation in Europe (CSCE), held from 1972 to 1975, led to the adoption of the Helsinki Final Act. Subsequently, with the adoption of the Charter of Paris for a New Europe (November 21, 1990), CSCE marks the beginning of the change that led to Organization for Security and Co-operation in Europe (OSCE) - January 1, 1995, based on the Statement of Budapest Summit (December 6, 1994). Currently, OSCE is an international organization that provides the formal framework and working platform needed to manifest the political dialogue of a number of 57 participating States on three continents (North America, Europe and Asia), and works for the better of more than one billion people in the areas of stability, peace and democracy.

4 ***The United Nations, *Charter of the United Nations*, San Francisco, June 26, 1945, Article 1, Paragraph 1, available at: <https://www.un.org/en/sections/un-charter/chapter-i/index.html>, accessed September 24, 2019.

5 ***The United Nations, *Charter of the United Nations*, San Francisco, June 26, 1945, Article 2, Paragraph 3.

6 ***The General Assembly, 2627 (XXV). *Declaration on the Occasion of the Twenty-fifth Anniversary of the United Nations*, 24 October 1970, paragraph 3, available at: <https://digitallibrary.un.org/record/201690>, accessed on September 25, 2019.

7 ***The General Assembly, 2734 (XXV). *Declaration on the Strengthening of International Security*, 16 December 1970, p. 22, available at: [https://undocs.org/en/A/RES/2734\(XXV\)](https://undocs.org/en/A/RES/2734(XXV)), accessed on September 25, 2019.

8 ***The General Assembly, 40/9. *Solemn appeal to States in conflict to cease armed action forthwith and to settle disputes between them through negotiations, and to States Members of the United Nations to undertake to solve situations of tension and conflict and existing disputes by political means and to refrain from the threat or use of force and from any intervention in the internal affairs of the States*, 8 November 1985, p. 20, available at: <http://www.worldlii.org/int/other/UNGA/1985/9.pdf>, accessed on September 25, 2019.

9 ***The General Assembly, 2625(XXV). *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations*, 24.10.1970, available

at: [https://www.undocs.org/A/RES/2625\(XXV\)](https://www.undocs.org/A/RES/2625(XXV)), accessed on September 26, 2019.

10 ***The General Assembly, 37/10. *Manila Declaration on the Peaceful Settlement of International Disputes*, 15.11.1982, available at: https://peacemaker.un.org/sites/peacemaker.un.org/files/GARES_ManilaDeclaration_ARES3710%28english%29.pdf, accessed on September 26, 2019.

11 ***The General Assembly, 43/51. *Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in This Field*, 5.12.1988, available at: <https://www.refworld.org/docid/3b00f2274b.html>, accessed on September 24, 2019.

12 ***The General Assembly, 46/59. *Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security*, 9.12.1991, available at: <https://undocs.org/A/RES/46/59>, accessed on September 26, 2019.

13 ***The General Assembly, *Manila Declaration on the Peaceful Settlement of International Disputes*, 15 November 1982, Section I, Paragraph 13, available at: https://peacemaker.un.org/sites/peacemaker.un.org/files/GARES_ManilaDeclaration_ARES3710%28english%29.pdf, accessed on September 26, 2019.

14 ***The League of Arab States, *Pact of the League of Arab States*, 22 Martie 1945, Articol 5, Paragraful 1, available at: http://www.internationaldemocracywatch.org/attachments/264_Pact%20of%20the%20League%20of%20Arab%20States.pdf, accessed on September 26, 2019.

15 ***The Organization of American States, *American Treaty on Pacific Settlement "Pact of Bogota"*, 30 Aprilie 1948, Articol 1, available at: https://www.oas.org/sap/peacefund/resolutions/Pact_of_Bogot%20C3%A1.pdf, accessed on September 26, 2019.

16 Helsinki Final Act presents, in its first part, the principles that guide the relations between participating States: 1. Sovereign equality, respect for the rights inherent in sovereignty; 2. Refraining from the threat or use of force; 3. Inviolability of frontiers; 4. Territorial integrity of States; 5. Peaceful settlement of disputes; 6. Non-intervention in internal affairs; 7. Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief; 8. Equal rights and self-determination of peoples; 9. Cooperation among States; 10. Fulfilment in good faith of obligations under international law.

17 ***OSCE, *Conference on Security and Co-operation in Europe Final Act*, Section (a) Declaration on Principles Guiding Relations between Participating States, II. Refraining from the threat or use of force, paragraful 1, Helsinki, August 1, 1975, available at: <https://www.osce.org/helsinki-final-act?download=true/>, accessed on September 26, 2019.

18 ***OSCE, *Conference on Security and Co-operation in Europe Final Act*, ...VI. Non-intervention in internal affairs.

19 ***The General Assembly, *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations*, 24.10.1970, The principle of sovereign

equality of States.

20 ***OSCE, *Conference on Security and Co-operation in Europe Final Act ...* I. Sovereign equality, respect for the rights inherent in sovereignty.

21 ***The General Assembly, *Manila Declaration ...*, Section I, Paragraph 1.

22 ***The General Assembly, *Manila Declaration ...*, Section I, Paragraph 5.

23 ***The General Assembly, *Manila Declaration ...*, Section I, Paragraph 11.

24 ***The General Assembly, *Manila Declaration ...*, Section II, Paragraph 2.

25 ***The General Assembly, *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations*, 24.10.1970, The principle that States shall fulfill in good faith the obligations assumed in accordance with the Charter.

BIBLIOGRAPHY

United Nations, *Charter of the United Nations*, San Francisco, June 26th, 1945.

Organization for Security and Co-operation in Europe, *Helsinki Final Act*, Helsinki, August 1st, 1975.

The General Assembly, *United Nations Millennium Declaration*, September 8th, 2000.

The General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development*, September 25th, 2015.

The General Assembly, *Declaration on the Occasion of the Twenty-fifth Anniversary of the United Nations*, October 24th, 1970.

The General Assembly, *Declaration on the*

Strengthening of International Security, December 16th, 1970.

The General Assembly, *Solemn appeal to States in conflict to cease armed action forthwith and to settle disputes between them through negotiations, and to States Members of the United Nations to undertake to solve situations of tension and conflict and existing disputes by political means and to refrain from the threat or use of force and from any intervention in the internal affairs of the States*, November 8th, 1985.

The General Assembly, *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations*, 24.10.1970.

The General Assembly, *Manila Declaration on the Peaceful Settlement of International Disputes*, 15.11.1982.

The General Assembly, *Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in This Field*, 5.12.1988.

The General Assembly, *Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security*, 9.12.1991.

The League of Arab States, *Pact of the League of Arab States*, March 22nd, 1945.

The Organization of American States, *American Treaty on Pacific Settlement "Pact of Bogota"*, April 30th, 1948.