

## INTERNATIONAL DISPUTES AND CRISES AND METHODS OF OVERCOMING THEM

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#### ABSTRACT:

*After short introduction the author deals with international disputes (their concept and resolution) and then turns his attention to international crises (concept, resolution, crisis management). He notes that unresolved disputes often lead to crises, and these, on their part, if not resolved in time, lead to various conflicts in the political, ideological, economic etc. field and sometimes even end with armed conflict. Therefore, it is necessary to resolve international disputes as soon as possible, preventing them from becoming crises, as, if there is already a crisis, it is important not to allow it to develop into conflict. All this must be done with having into account specificity of each situation and only by peaceful means.*

**KEYWORDS:** international law, international disputes, international crises, conflicts, resolution

#### INTRODUCTION

International disputes, crises and conflicts are phenomena that arise in international relations. Here we use the term international relations in a narrow sense, meaning that we have in mind, first of all, the relations between the states, and in the first place the political relations between them [1].

These relations can move in a wide range of extremely friendly, through relatively underdeveloped ones to those which are burdened with certain misunderstandings, disputes and conflicts. They are not once and for all, they are subject to constant changes. Even countries that have very good mutual relations can, under the influence of internal or external factors, come to the point when these relations are corrupted and serious disagreements and conflicts erupt between them. We also have enough examples that "centuries-old enemies" at one time found a common language and became the closest allies.

What is important here is the fact that disputes, crises, and conflicts are part of life. However, the interests of the states concerned, as well as of the interest of the entire international community, require that disputes and other

tensions be avoided, and, in case they already exist, be solved as soon as possible. With the desire to bring the problem closer, we will briefly deal with international disputes, crises and conflicts and ways of overcoming them.

#### 1. INTERNATIONAL DISPUTES

##### 1.1. Concept

International dispute is a sufficiently serious disagreement between two or more subjects of international law or international relations, in terms of some facts or rights, or the opposition of their subjective rights, of different interests, attitudes and arguments.

Since states are the main subjects of international law and international relations, on which ultimately depends everything that happens in the international community, international disputes arise primarily between states and concern the conflict of their rights or interests.

Dispute exists whenever there is a disagreement about some important moment (legal act, subjective right, interest, procedure, facts, etc.) that seriously corrupts or at least compromises the mutual relations of the given

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states. The mere inconsistency of attitudes (for example, a different vote of state representatives on a particular issue in an body of an international organization) is not in itself a dispute.

On the other hand, the dispute, strictly speaking, implies a disagreement over a particular issue, rather than a "general disputable relationship", in principle, and even "traditional" mutual intolerance.

It is also possible that among the countries concerned there are several disputes that are long-lasting, especially complex and interconnected, and it is not enough to call them ordinary disputes. Then such a reality is usually called a "situation." The way to overcome it lies in solving certain concrete disputes. In doing so, one usually starts from those issues that can most easily be resolved, and with the reliance on achieved successes and growing mutual trust, one can turn to more and more complicated i.e. more difficult and sensitive questions. Examples of such situations are the tense relations between India and Pakistan in respect of Kashmir (lasting from 1947), the Arab-Israeli conflict (lasting since the declaration of the state of Israel in 1948), relations between North and South Korea after the Korean War (since 1953), etc

The reasons that lead to an international dispute or the way it originates can be very different. It usually arises in direct relations between states, in the context of conflicts of their rights and interests. International disputes often arise in connection with the pretensions of two or more parties to the same territory, or because of delimitation; in relation to the protection of the environment, the status of watercourses and fishing; on the interpretation and application of a contract; in connection with the succession of states; due to unpaid debt or damage compensation; in relation to the position of a national or religious minority of one state in another; because of a serious violation of the rights of a national citizen by the authorities of a foreign state, and the like. It is also possible that an international dispute arises from a private dispute, which happens when the state turns to institute of diplomatic protection in order to protect its nationals whose rights or interests have been violated by another state.

International disputes can be divided according to various criteria - by number (bilateral and multilateral), participants (between states, between states and international organizations,

between international organizations, etc.); nature and essence (legal and political) etc. Here one has to remind that legal disputes are disputes about law. They relate to legal facts, interpretation and application of international law, determining the amount and nature of compensation due to the infringement of a right, and the like. All other disputes are non legal – they are political. They arise in connection with conflicts of certain political, security, economic and other interests. In principle, even they usually take into account international law, but they are not solved on the basis of that law and in strictly legal proceedings. However, in practice, it is difficult to argue that an international dispute falls into only one of these two categories - as a rule, it has both legal and political elements.

## 1.2. Dispute resolution

Regardless of the type of dispute and the parties to the dispute, international disputes must be resolved without delay, and only by peaceful means. Contemporary international law expressly prohibits the resolution of international disputes by threat or use of force.

Accordingly, the peaceful resolution of international disputes takes into account the various procedures, measures and activities that should ensure that disputes and disputed situations are overcome as soon as possible, in a way that is as acceptable to all interested parties and in any case without resorting to force.

Classical international law and the legal science made the distinction between peaceful and compulsory means for resolving international disputes. Or, in a slightly more developed variant: friendly (i.e. out-of-court) solutions, solutions through arbitration and violent solutions. At the same time, retorsion, reprisals and war were highlighted as compulsory means. This division was maintained until the end of the Second World War, with violent solutions, under certain conditions, considered permissible.

Although positive international law prohibits not only the use of force, but also threat of force and insists on the peaceful resolution of disputes, the division of peaceful and compulsory means, traditionally, can be found in legal literature. However, it is not correct in our time.

From the standpoint of contemporary international law, not only war is not a mean of

resolving disputes, but it is explicitly prohibited. Moreover, the aggression is declared an international crime.

Regarding retorsion and reprisals, they cannot be considered compulsive ways of resolving disputes. First of all, these measures are not necessarily coercive in a way that implies use of force. In addition, even when there is a dispute in their background, their application does not mean its solution at all - it is reduced to an attempt to make the other party change its behavior or to persuade it to accept some sort of peaceful settlement of the dispute. Therefore, it is more correct to look at retorsion and reprisal as a kind of self-help or a type of sanction, and not as (forcible) means of dispute resolution. [2]

In this way, only peaceful (peaceful) means remain, such which do not include use of force.

They have changed throughout history. While e.g. Grotius in the *De Jure Belli ac Pacis* (1625) lists only three such means (direct diplomatic negotiations, arbitration and lot), later peaceful means developed very much in number and type, and can be classified in various ways.

Nevertheless, given the nature of the bodies involved in resolving the dispute, the form of the procedure, the criteria and sources on the basis of which the dispute is resolved and the degree of the binding power of the decision of the relevant body, it is common to divide the "peaceful" means of resolving disputes in diplomatic (political) and judicial (legal). [3, 4, 5, 6, 7, 8, 9, 10, 11].

Diplomatic (political) ways of peaceful resolution of international disputes realize themselves through diplomatic channels i.e. through political representatives of states or international organizations. This includes direct diplomatic negotiations, good offices, mediation, conciliation, inquiry, resolving disputes by a political organ of an international organization, and the like. They seek to reconcile the interests of the parties to the dispute, and not necessarily in every way, satisfy the demands of the international legal order, and neither justice nor fairness. Also, the solutions that are achieved by this way are not in themselves legally binding, unless they are transposed into a treaty between the parties to the dispute.

The good side of these ways of peaceful resolution is reflected in the fact that they are

flexible and adaptable to various types of disputes and various situations. This allows for the solution to be found in some kind of compromise in most cases, with no one being a complete winner, but also not a complete loser. With the sense of preserving dignity (no one likes to lose, including states), such a balancing of meeting conflicting interests represents a kind of guarantee that the solution reached will indeed be achieved and that the dispute will be settled permanently or at least for a long time. One of the advantages is that accepting one of these steps does not mean accepting a commitment to a solution that will be offered in the further proceeding by the other party or the third, independent factor. As long as both parties to the dispute do not accept them, all decisions, recommendations and advice have an optional character. Finally, these means are very valuable in particularly sensitive situations, when a solution to the dispute and satisfaction of justice can be achieved, while avoiding the responsible party being labeled as a culprit.

High flexibility at the same time is the biggest weakness of these mechanisms. They at all times depend on the willingness of parties to the dispute to cooperate. Also, even when negotiations, mediation, etc. are already in progress, each side has the right to abandon them, whenever it considers it necessary or opportune.

Except in cases, when their result is reflected in a legally binding document (an international treaty that came into force or a certain decision of an authorized political organ of an international organization – in the first place the decisions of the Security Council under Chapter VII of the UN Charter, which are, as such, binding on all countries), these methods, even when the procedure is brought to an end, end with acts that do not have legally binding character - various suggestions, recommendations and the like. In practice, this can lead to excessive difficulty in prolongation of the dispute, to the creation of irreparable damage, and to the escalation of tension in relations and the possible escalation of the dispute into a conflict.

On the contrary, when it comes to judicial (legal) means, the dispute is settled by legal authorities (international tribunal or arbitration), which decide on the basis of the requests and evidence presented. The benefits are that the solution comes in a strictly formal, well-known legal procedure that ensures equality of both parties, the possibility of presenting evidence

and hearing before the court; that the decision is based on clear legal rules i.e. norms of international law (except, of course, in those exceptional cases where the litigants agree that the court can resolve the dispute *ex aequo et bono*) and, in particular, that the decision (judgment) is legally binding for the parties to the dispute. In some cases, there is a possibility for the dissatisfied party to appeal to a higher judicial instance. Here it is important to remind that although states may, in principle, avoid the jurisdiction of an international tribunal or, arbitration, when they enter court (arbitration) resolution, they are obliged to enforce a verdict in good faith. In case they refuse, they will face a moral conviction of the international community, and in many cases with certain sanctions (suspension of membership rights in the international organization, diplomatic sanctions, etc.)

On the other hand, the conditional weakness is the fact that the court procedure can in principle be initiated only on the basis of the consent of the parties to the dispute. It can be expressed in various ways, but this must be done clearly and publicly enough. Here one has to remember that even in diplomatic (political) ways of resolving disputes, the consent of the involved parties is required, but it can be given tacitly almost imperceptibly, and in some cases everything takes place in a very confidential way, so that only direct participants know about the started negotiations, mediation, etc. On the other hand, when a dispute under Chapter VII of the UN Charter is resolved by the Security Council, it can do so without the consent of the parties to the dispute, and its decision is legally binding

In addition, court proceedings, precisely because of their publicity and formalities, are not suitable when the relations between the parties to the dispute are very bad, when the issue is of vital importance to the party in dispute, when there are no clear legal rules and the like.

Bearing in mind that both approaches have advantages and disadvantages, in practice, diplomatic and judicial modes of peaceful resolution are often combined, in an effort to utilize the means which at the given stage can give the best result. For example, peaceful resolution can start with good services and mediation, but then, when certain progress and approaching attitudes are achieved, the final solution of the dispute can be entrusted to an international court or arbitration, as it can also

happen that, after all, the dispute is settled consensually, in direct negotiations, and before the end of the procedure before the court or arbitration. Such cases often occur in practice.

In any case, both diplomatic and judicial methods of peaceful settlement of disputes rest on the same principles, such as: the obligation of peaceful resolution of the dispute; obligation to cooperate in the peaceful resolution of the dispute; the principle of the sovereign equality of the parties to the dispute; the freedom of the parties to the dispute to decide by themselves by the most appropriate way to resolve the dispute; obligation to act in good faith (*bona fide*); etc.

## 2. INTERNATIONAL CRISES

### 2.1. Concept

The international crisis is not the same as the international dispute. Although, it often exists along with the dispute, strictly speaking, these are different phenomena. After all, the vast majority of international disputes do not grow into any kind of crisis (disputes that are resolved peacefully on time), as, on the other hand, the crisis can arise without any dispute (e.g. various refugees, humanitarian, ecological, economic, hostage and other crises).

While in a dispute positions of the parties involved are opposed, in the case of a crisis which did not arise from the dispute, states strive for a common goal and therefore, they usually work closely to overcome the crisis. In this respect, we one speaks about the new nature of the crises, and the striking examples are the events of September 11, 2001. in the United States; pandemics SARD (2003) and H1N1 (2009); tsunami in the Indian Ocean 2004; hurricane Katrina 2005; volcanic eruption in Iceland 2010; or earthquake in Japan that led to the disaster of the Fukushima nuclear power plant [12].

Also, while an international dispute arises in relations between states, the crisis can develop in one country (e.g. civil war), and only after that get international elements. One of the differences is that the disputes are, as a rule, two-sided, and that the crises can be local, national, and global. For example, while it very difficult to imagine a global dispute, global crises do exist (e.g. economic global crisis).

Nevertheless, the connection between the

dispute and the crisis is common and mutual.

Although it can occur without it, in practice, the crisis is often a continuation of the unresolved serious international dispute. Therefore, it could also be described as a dispute that escaped control.

Conversely, crisis that occurred spontaneously can lead to an international dispute. For example, a large refugee, economic, security, ecological and other crises create fertile soil for various disputes in the international community, and even conflicts between states; if the territorial State does not take appropriate steps against terrorists who have endangered, injured or deprived the lives of foreign nationals, this can lead not only to serious dispute but also to international conflict; etc.

There is also a narrow meaning of the term "international crisis". Here we have in mind the intensification of relations and confrontations between two or more states or other subjects in relation to a specific problem of political, military, economic, religious, ideological and similar nature. Sometimes this situation is described as "neither war nor peace" [13].

Recent history knows large number of international crises. Most of them, fortunately, were resolved peacefully, but some (e.g. Sarajevo crisis 1914) directly led to an armed conflict. Some of the examples from modern history are: The First Moroccan Crisis (1905-1906), the Bosnian alias the Annexation Crisis (1908-1909), the Second Moroccan Crisis (1911), the Sarajevo Crisis (1914), the Anschluss of Austria (1938), the Sudet Crisis (1938), the Trieste Crisis (1945-1954), the First (1948-1949) and the Second Berlin Crisis (1958-1962), the Cuban Missile Crisis (1962), the Crisis during the Yom Kippur War (1973), the Iranian Hostage Crisis (1979-1981), the Yugoslav Crisis (1989-2002), the Syrian Crisis (2011-), the Ukrainian Crisis (2014- ), European Migrant (Refugee) Crisis (2014-), etc.

## **2.2. Resolving the crisis**

As it is best to immediately resolve the international dispute, in order to prevent it to grow into a crisis, so it is necessary to resolve the international crisis without any delay and not allow its development in terms of the essence (its outgrow in open conflict) and scope (spreading the circle of states that are affected by it).

The mode of resolution depends on the nature of the crisis. As well as dispute, the crisis, according to contemporary international law, can be solved only by peaceful means.

## **2.3. Crisis management**

One of the differences between international disputes and crises is that the dispute is only about resolving, while crisis is sometimes referred to as crisis management.

This term was created during the Cold War and was associated with secret operations of the US intelligence services. Since 1991 it has been officially in use within NATO's strategy. Although it may have various meanings, it usually involves controlling a particular crisis and preventing escalation of the conflict. As a necessary step towards restraining the conflict and a prerequisite for the start of its peaceful resolution, the crisis management considered in this way is in line with international law. However, such actions are more correctly called peacekeeping operations.

On the other hand, in a special meaning, crisis management involves artificial provocation of a crisis (destabilization of a state or state, causing civil war, ethnic, religious, ideological and other conflicts, etc.) and then controlling the event and directing it in the desired direction, implying, depending on a case, spread of conflict, the deterioration of international relations, and the like. This is done by applying various forms of threats, political economic and other pressures, blackmail, etc. and in some cases, hidden or even open-ended use of force. So understood, crisis management is part of the special war, especially the so-called strategy of the low intensity conflict. From legal viewpoint it is contrary to the basic principles of contemporary international law and explicit provisions of the UN Charter on the prohibition of the use of force and the threat of use of force in international relations [14, 15, 16, 17].

## **CONCLUSION**

In practice, unresolved disputes often lead to crises, and these, on their part, if not resolved in time, lead to various conflicts in the political, ideological, economic, propaganda etc. field. Sometimes everything ends with an armed conflict.

This clearly indicates that it is necessary to resolve international disputes as soon as

possible, preventing them from becoming crises, as, if there is already a crisis, it is important not to allow it to develop into conflict. Because any serious conflict can be easily grow to become sort of armed conflict or even long and bloody war.

On the other hand, if there has already been a conflict, especially armed, the order of finding solution is usually reversed. First, the conflict should be curbed (seasefire, split the conflicted sides, etc.) and thus turn it into a kind of frozen crisis. Then the crisis must be solved step by step, moving from easier to more difficult issues. When the crisis is overcome or at least reduced to acceptable

frameworks, there is the opportunity to approach the dispute itself on the wings of the achieved results and the increased mutual trust, thus removing possible future misunderstandings and frictions.

Still, there are no rigid rules. Every situation is the case for itself. Sometimes a serious dispute can be overcome relatively quickly and to the satisfaction of all, while a seemingly ordinary misunderstanding can end with the war. After all, history has seen a lot of wars that came without any real dispute or even misunderstanding - only because of the invading plans of the attackers, and even for entirely irrational reasons.

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