

Forum: General Assembly 6

Issue: Effects of Armed Conflicts on Treaties

Student Officer: Sanjith Ganesan, Fiza Dar, and Ahmed Ibrahim

Position: Chairs of GA6

Introduction

This issue deals with United Nations (UN) treaties that have already been established or voted upon and examines the effects of armed conflicts on treaties that have already been passed or on treaties that are in the process of being negotiated. Armed conflict can be described as the conflict, of a militaristic nature and following the conduct of war, between states, entities and nations. Armed conflicts are also distinguished under two classifications; International Armed Conflicts (IAC) and Non-International Armed Conflicts (NIAC), which are later defined under the section titled 'Definition of Key Terms'. Treaties are written agreements between parties (i.e. states, entities or nations) which are adhered to under the governance of International Law.

Armed conflicts involve conflicts between parties and treaties involve agreements between parties, thus the effect of armed conflicts on treaties is inevitable. The UN firmly stands against armed conflicts and thus in nature, armed conflicts contradict UN principles and thus any treaties formed or signed, especially those involving the UN. Armed conflicts lead to treaties being strained; entities that may have been agreement on certain policies or issues before and are now at war, can be forced to oppose each other on those issues and thus lead to the violation of treaties, which has consequences. Should the parties involved have accepted to be governed under the jurisdiction of the International Court of Justice (ICJ), the ICJ will then decide the course of action. A potential course of action that could be followed is exclusion of the party or parties involved in political and economic terms. Sanctions could be imposed which could lead to adverse impacts on the state of the country. Challenges arise however, when countries of heavy political and economic power, for example one of the 5 permanent members of the UN (largely referred to as the 'P5' and consisting of China, France, Russia, the United Kingdom and the United States) does not adhere to an agreement. It becomes challenging to control them and thus in such scenarios, groups of countries form to exercise control. Armed conflicts can also affect treaties that are being negotiated as in the process of negotiation, new circumstances may arise as a result of the conflict, resulting in new considerations that need to be made in the process of negotiation (for example, it may lead to terms and entities being added or

removed). Armed conflicts can also be the triggering factor as a result of which treaties may need to be created and signed.

Armed conflicts and terrorism are prevalent to an increased number of nations in recent times with conflict being of an extremely violent and fatal nature. With more parties involved, more negotiations are taking place and healthy diplomatic relations are of essence. The establishment of and adherence to treaties is affected by armed conflict, and this affects diplomatic relations between countries. The formation of treaties leads to healthier diplomatic relations and brings entities together; unity is encouraged and the prevention against the issue is improved. Conversely, the violation of treaties leads to tense, and potentially the breakage of, diplomatic relations between entities and thus tensions between countries. This is counterproductive as in a time where treaties should have been and are being formed to unite states, nations are instead conflicting with each other affecting the unity of the states that was created as a result of the treaty; this unity is necessary as a result of the issues faced by the UN and the world today which requires strong forces to combat and solve them. It is important for the effect of armed conflicts on treaties to be reduced as treaties formed which are of benefit to parties who have signed the treaties will as a result be stripped of the benefits and of healthy diplomatic relations. The increase of the negative effects of armed conflicts will lead to a world in which international relations are complicated and of a negative nature, making it easier for issues faced (for example, terrorism) to thrive.

Definition of Key Terms

Armed Conflict

Conflicts, of militaristic nature and following the conduct of war, between parties (states, entities and/or nations).

International Armed Conflicts (IACs)

These are conflicts between states that have led to the involvement of armed forces. It is important to note that to classify a conflict as an IAC, there is no specific duration or magnitude that the conflict has to embody and the occurrence of a formal declaration of war is unnecessary.

Non-International Armed Conflicts

These consist of all other types of armed conflict and this classification was created as a result of the existence of civil wars, therefore an example of an NIAC is a civil war.

Treaty

Written agreements between parties (i.e. states, entities or nations) which are adhered to under the governance of International Law.

International Law

International pertains to a set of rules or laws that affect and govern relations between nations (International relations).

Geneva Law

The set of laws regarding the protection of people involved in and/or affected by armed conflict. This was named the Geneva Law as a result of the city (Geneva) in which major steps were taken to draft and adopt documents regarding the protection of people in armed conflict.

International Court of Justice (ICJ)

The International Court of Justice is the judiciary branch of the UN dealing with all judicial procedures. It is based in The Hague, in the Netherlands.

Background Information

Usually United Nations treaties are signed or agreed upon to ensure no further conflict will arise between nations and to maintain international peace. However, sometimes member nations take it upon themselves to resolve certain issues and result in the usage of armed forces.

Armed conflict is completely contradictory to what the UN stands for. That is why treaties exist: to ensure no lives are lost because of differences in political ideologies. Going back to the world wars, we can see that armed conflict gets us nowhere and only shows the rest of the world the cruel side of humanity.

To avoid situations like that the UN exists. UN treaties have been upheld for so long but in today's world where international peace and security are constant tensions, we must devise solutions to this potential problem at hand.

Historical Precedents

The Kellogg-Briand Pact of 1928, abolished forms of warfare (such as invasions) and ushered in a 'new world order'. But then Japan invaded Manchuria because they weren't a signatory to this treaty, and other countries couldn't do anything about it because they had signed this treaty. They sat defenseless as Japan remained doing what it pleased. But does this mean that the nations bound by the treaty should disregard it to counter invasions and acts of war? If so, what are the new parameters of the treaty? Some countries may think certain acts of war are wrong whereas others may not share the same belief, and this

could lead to a whole host of other issues which would then need to be examined. If not, then is there a point of establishing such treaties if there isn't universal consensus on this? Are there certain issues or treaties that - if there is a majority of countries who support it - becomes international law? For example, do climate change treaties de facto become international law as that is something that affects the entire world.

Distinction of Treaties

It is important to note that not all treaties are the same. Some may pertain to conduct during warfare while others can be between two states or between the UN and a state in question. For example, if a war between the United States of America and the Democratic People's Republic of Korea was to break out, would all bilateral treaties be annulled? Would both nations end trade and risk damaging the global economy? This could result in other nations either boycotting goods and services sold from these countries, or it would result in countries too dependent upon the goods and services from these countries to back them up with their endeavour into armed conflict. This could be extremely dangerous as another potential world war could be the end result. Consequently, should the United Nations have the power to do anything / prevent this from happening in the first place?

Accountability

If Syria (for example) violated UN or international treaties due to the civil war currently going on over there, would the international community have to intervene? Would sanctions automatically be placed on Syria? If so, wouldn't this worsen the situation? The country is already in a major crisis and the cutting of ties from international allies would worsen the current situation not only for the government but also for the civilians.

Forms of Conflict

It is important to note that armed conflict does not only pertain to weaponry, invasions and traditional means of conflict. It can also pertain to chemical and biological warfare. These new mediums have been considered to be unethical by many countries and have previously been discussed at UN meetings as well. However, when two nations are at war, would they really care about ethics when fighting? Seeing as these two mediums of warfare are generally frowned upon, what effect would they have on treaties? To this date no treaty has explicitly stated that chemical and biological warfare is wrong, so can they really be considered armed conflict? If countries agree they will not engage in armed conflict, this wouldn't necessarily count.

Effects on People Directly Affected

Physical Needs

Areas of armed conflict negatively affect civilian lives. So many individuals become dislocated, have their houses burned down or worse, die. Armed conflict arises only when two governments differ in political ideology, but why must they sacrifice the lives of human beings to achieve some kind of solution? Can diplomatic treaties not do this in a better manner where each side is heard, in addition to having no civilian lives lost?

Lack of healthcare

In areas of armed conflict, war has broken out. A proper functioning society turns into an area of turmoil with every man, woman and child for him or herself. With most of the upper class leaving the country, educated professionals are less and less likely to remain in the nation. As a result doctors cannot provide proper health care to casualties as they are not within the country.

Progression of Humanity

Detrimental and harmful weaponry is used in war. These weapons have dangerous and long lasting effects. Future generations from that area are at risk of obtaining genetic mutations from radiation of the weapons. People in Hiroshima and Nagasaki are still born deformed today due to the result of the last world war. The society will take too much time to progress from armed conflict as children will lose out on education, nourishment, care: all the essential things required to maintain a happy childhood to prepare the future generation for success.

Major Countries and Organizations Involved

The Geneva Conventions (first in 1864, last in 1949)

The Geneva Conventions consisted of four treaties and three protocols that have been established to set the regulations for law (on an international scale) for humanitarian treatment in a war situation. The conventions protect the sick and wounded, the prisoners of war and civilians. They have been accepted universally. The conventions have been important in helping many detainees and States are constantly reminded by the ICRC (International Committee of the Red Cross) that these are the rules they should keep in mind when dealing with situations/scenarios of armed conflict.

Eritrea and Ethiopia

While the conflict between Eritrea and Ethiopia (1998-2000) was taking place, the visit of the ICRC highlighted the relevance of the Geneva Conventions now in dealing with armed conflicts. The ICRC visited, “over 1,000 Ethiopian Prisoners of war and 4,3000 civilian internees. [They also] facilitated the exchange of 16,326 messages between Ethiopian and Eritrean prisoners of war and their families. [They] also organized a safe passage across the front lines for 12,493 civilians of Ethiopian origin.” (Address by Knut Dörman,

Head of Legal Division at ICRC). This shows the effect of the Geneva Conventions on the treatment and gestures regarding modern-day conflicts.

Iraq

Iraq is currently a nation experiencing immense amount of armed conflict. The Geneva Conventions again dictate the involvement of the ICRC in Iraq and the conduction of their operations. As mentioned in an address by Knut Dörman, Head of Legal Division at ICRC, “between April 2003 and May 2004, the ICRC visited 6,100 prisoners of war and 11, 146 civilian internees and detainees held by the occupying powers; and over 16,000 Red Cross messages were exchanged between prisoners and their families.” In addition to the Geneva Conventions, the UNCAT (United Nations Convention Against Torture), effective 26 June 1987, is an international treaty regarding human rights that seeks to prevent the use of cruel and inhuman punishment/treatment around the world. As a result of the conflict faced in Iraq currently, this convention is being violated as torture is being used against prisoners (also violating the Geneva Convention).

Saudi Arabia and Yemen

With the current war involving Saudi Arabia and Yemen, the historical treaty between the countries has been affected; the Treaty of Taif. The primary motive for this war is territory and both treaties established territorial boundaries. The Treaty of Taif created a border that included three regions crucial to the Yemenis (Asir, Najran and Jizan) to the Saudis which upset the Yemenis. Upon the creation of the new republic in Yemen in 1962, the Treaty of Taif was declared invalid and they decided to fight for the territories again. Thus the current armed conflict between coalitions in Saudi Arabia and Yemen is affecting the Treaty of Taif which established their geographical borders.

ISIS

What we know as the Middle East today didn't exist before World War I. Before 1914, a large part of the Middle East was part of the Ottoman Empire. Upon the Allies thinking that they had a chance at winning the war, they (specifically the UK and France) agreed upon a treaty in secret and this treaty decided how they would divide the land to add to their empires. This is also known as the Sykes-Picot agreement and created Iraq and Syria. The problem with this was that they did this arbitrarily and didn't consider the inhabitants of these areas and their reactions. ISIS' agenda now largely consists of getting rid of these borders induced by the Sykes-Picot Agreement, demonstrated in one of the first videos filmed by them in which they placed dirt between Iraq and Syria and displayed a sign reading, “End of Sykes-Picot”.

Timeline of Events

Date	Description of event
1864-1949	Geneva Conventions
1934	Saudi-Yemeni War, Treaty of Taif established
1964	Israeli-Palestinian Conflict
June 26 1987	UNCAT established
1998-2000	Eritrean-Ethiopian War
1999	Formation of ISIS
2001-present	Afghanistan War
2003-present	Iraqi Conflict
2011-present	Syrian Civil War
2014-present	Iraqi Civil War
2015	Saudi-Arabian Led intervention in Yemen

Relevant UN Treaties and Events

- Report of the International Law Commission on the work of its fifty-second session, 19th January 2001, **(A/RES/55/152)**

This resolution seeks to improve communications and relations between the government and International Law Commission. Resolution is primarily a review of the work of the International Law Commission and at this point the effectiveness of the communication fostered by the International Law Commission was evident.
- Report of the International Law Commission on the work of its fifty-third session, 18th January 2002, **(A/RES/56/82)**

Resolution seeks to request states to submit their legislations and laws to the International Law Commission hence when reviewing treaties between states in armed conflict, decisions made will be done under context and respecting sovereignty of the states.
- Effects of armed conflicts on treaties, 27th February 2012, **(A/RES/66/99)**

Defines and reduces ambiguity concerning this issue. Outlines clearly the key concepts of the articles concerning effects of armed conflicts on treaties.
- Report of the International Law Commission on the work of its sixty-third session, 13 January 2012, **(A/RES/66/98)**

This is a completed and reviewed version of the draft articles. Further detail of reports on treaties over time. It also includes environmental protection in armed conflicts and the application of treaties during armed conflicts.

- Draft articles on the effects of armed conflicts on treaties, 2011, **(A/66/10)**

This is a full report including the effect of armed conflicts within treaties. Delegates looking at report should focus on Chapter IV. A/66/10 gives context to the issue and provides information of current schemes of work occurring.

Previous Attempts to solve the Issue

The Articles

The creation of the articles is followed by the majority of member states. The articles outline a framework for countries to follow. There are a total of 18 articles. These articles define the terms of “treaties” and “armed conflict” and try to eliminate ambiguity therefore reducing issues between the parties during an armed conflict.

In 2004, the International Law Commission (ILC), included this issue into their programme and in 2011 created the articles on this issue.

Furthermore, the current articles ensure that states have to give ample time for the parties involved in treaty of their desire or decision to conclude their agreement. As such, the involved parties on the end of a state's decision have the right to protest to a decision of this nature.

Generally, it is usually considered that non-international armed conflicts should not affect States' treaty relations.

Vienna Convention on the laws of treaties 1869

The creation of the Vienna Convention was to primarily protect the growing importance of treaties in an increasingly more international world. In addition, the Vienna Convention touches upon in article 73 - yet with no real sense of closure or “real” solution - stating “...present Convention shall not prejudice any question that may arise in regard to a treaty from a succession of States or from the international responsibility of a State or from the outbreak of hostilities between States”.

Possible Solutions

Wartime

During wartime, treaties of a nature that seeks to enhance the harmony between states is considered nullified and suspended throughout the period of conflict. However, in cases of conflict that may last several years such as the Saudi-Yemen, potential post wartime discussions may be less favourable and stipulations in treaties prior to the conflict may be taken in bad faith.

Discussions need to be facilitated between states involved in conflicts through perhaps a third party organisation, such as the International Court of Justice (ICJ), to act as a mediator between states or come to a decision for the states.

It should be noted that as of writing this now article 66 touches upon the introduction of the ICJ, yet there is a belief that more clarity is required for this to be reliable, fair option in the future.

Procedural Revision

Armed conflicts involving states may lead to the inability of a state to be able to follow the long, current drawn out procedure. Further revision of the articles as well as potential international assistance through means of a trusted external body (e.g - the UN, ICJ etc.) may ease political difficulties a state may be undergoing hence facilitating the continuation or revision of treaties during armed conflict.

The Qualifier

Within the articles, is a “qualifier”. This qualifier expresses that a conflict requires to be lasting longer than expected to fall under the draft articles. The qualifier acts as a theoretical buffer to potential destabilising effects in internal conflicts.

However, the clause may be unnecessarily redundant and more importantly limiting as treaties which may not be providing continued due to the effect of articles 6 and 7.

Removing the clause would reduce redundancy and force review of effects of armed conflicts on treaties to be treated on a more case-by-case basis hence taking into account other factors that may affect a treaty. A less formulaic approach while may increase ambiguity may also help set fairer precedents overtime through cases that draw parallels to one another.

Bibliography

“Effects of Armed Conflicts on Treaties - Sixty-Ninth Session - Sixth Committee (Legal) - UN General Assembly.” *United Nations*, United Nations, www.un.org/en/ga/sixth/69/armed_conflicts.shtml.

Caris , E. M. “10 Ways World War I Affects Us Today.” *Listverse*, Listverse Ltd. , 8 Aug. 2016, <https://listverse.com/2016/08/14/10-ways-world-war-i-affects-us-today/>.

Asher Orkaby . "Saudi Arabias War with the Houthis: Old Borders, New Lines." *Saudi Arabias War with the Houthis: Old Borders, New Lines - The Washington Institute for Near East Policy*, The Washington Institute , 9 Apr. 2015, www.washingtoninstitute.org/policy-analysis/view/saudi-arabias-war-with-the-houthis-old-borders-new-lines.

Ochsenwald, William L., and Joshua Teitelbaum. "Death of Fayṣal." *Encyclopædia Britannica*, Encyclopædia Britannica, inc., 27 Sept. 2017, www.britannica.com/place/Saudi-Arabia/Death-of-Faysal#ref484650.

"Are the Geneva Conventions still relevant?" *INTERCROSS*, International Committee of the Red Cross , 12 Aug. 2015, <http://intercrossblog.icrc.org/blog/are-the-geneva-conventions-still-relevant>.

"The Geneva Conventions of 1949: origins and current significance." *ICRC*, International Committee of the Red Cross , 12 Aug. 2009, www.icrc.org/eng/resources/documents/statement/geneva-conventions-statement-120809.htm.

Boesveld, Sarah. "How the Geneva Conventions are changing." *The Globe and Mail*, The Globe and Mail Inc. , 27 Mar. 2017, beta.theglobeandmail.com/news/politics/how-the-geneva-conventions-are-changing/article1379880/?ref=http%3A%2F%2Fwww.theglobeandmail.com&.

"Vienna Convention on the Law of Treaties ." *Vienna Convention on the Law of Treaties* , 23 May 1969, <https://treaties.un.org/doc/publication/unts/volume%201155/volume-1155-i-18232-english.pdf>

"International Law." *Merriam-Webster*, Merriam-Webster, www.merriam-webster.com/dictionary/international%20law.

"Glossary of terms." *State Library of NSW*, 19 Feb. 2017, <http://legalanswers.sl.nsw.gov.au/hot-topics-80-international-humanitarian-law/glossary-terms>

"Types of Armed Conflicts." *The Law of Armed Conflict (LOAC)*, 5 Feb. 2017, <https://loacblog.com/loac-basics/types-of-armed-conflicts/>