

INTRODUCTION TO PANEL III: REGIONAL AND OTHER INTERNATIONAL ORGANIZATIONS RESPONSES TO INTERNAL CONFLICTS

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First, I would like to say a few words about Professor Rusk and his interest in the subject of intervention. For a long time he has been interested in problems of peaceful change, both domestic and international. I became especially cognizant of his interest some twenty years ago when I was working at the State Department in the Arms Control Agency. I was trying to persuade them that you cannot have arms control unless, at the same time, you can maintain peace and provide the proper means for peaceful change and protecting human rights. So they said, "All right, you seem to know about peaceful change, could you prepare a bibliography and a short memo on the subject." I went to the State Department library and collected a number of books. In those simple days before computers, they still had the system of putting on the back of each book the name of the person who borrowed it. When I got the books to my office, I happened to glance at the back of one of them, and then, becoming interested, I looked at the others. Every one of those books had previously been read by only one person in the State Department, and that person was Dean Rusk.

Another recollection that I have is of introducing Dean Rusk to the American Society of International Law in about 1963. I remember at that time citing a speech of his to the Foreign Press Association, which, I think, still reflects his point of view on the subject before us. He said that United States foreign policy has four commitments: to the United Nations, to the growth of law among nations, to economic and social betterment, and first of all, to freedom. Those are his four guidelines and they have also been mine to a very large extent, although I think I have deviated from them more than he has. These are certainly good guidelines for anyone who thinks about the future and a better world.

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The problem before us today is a difficult one. The League of Nations became very conscious that many interventions by states in the nineteenth century resulted from the fact that no entity other than a state could intervene to protect persecuted people. The minority treaties were, therefore, based on the principle that the League of Nations itself would protect minorities. It was hoped that League of Nations involvement might prevent the kind of trouble that led to the Balkan Wars and the First World War. Similarly, the United Nations quickly realized that in order to be able to maintain peace, it had to substitute, as far as possible, international intervention for national intervention, and it had to deal with problems that were threatening the peace of the world, even if they were domestic in nature. As you well know, article 2, paragraph 7, of the Charter provides for the exception of domestic jurisdiction,¹ but the exception is subject to the power of the Security Council to intervene when necessary for the maintenance of peace and security. This was, of course, the opening wedge for international action in domestic problems.

At the same time, however, we had another problem. The regional organizations, especially the Organization of American States, thought that they could best maintain peace internationally and domestically in their regions, and that therefore, the United Nations should stay out. Several provisions in the Charter, which I hope we will be discussing today, are relevant to the subject of the division of power between the United Nations and the regional organizations. The question of division of power was revived with the emergence of the Organization of African Unity and the many problems that it faced.

The issue arose originally in the Americas. The first case occurred in Guatemala, where in 1954 there was a conflict between Arbenz and Castillo Armas, and a great difficulty developed concerning the question of whether the United Nations or the Organization of American States should deal with the subject. The Arbenz government collapsed before this question was solved. Soon thereafter, Costa Rica was invaded from Nicaragua by Costa Rican exiles. President Figueros immediately asked for the help of the Organization of American States. On the Organization's request, several countries sent planes for air supervision of the border and that was sufficient to stop the infiltration. Consequently, the

¹ U.N. CHARTER art. 2, para. 7.

United Nations did not get involved in this case. We have also had several problems concerning Cuba, particularly the Bay of Pigs invasion and the Punta del Este decision by which Cuba was read out of the Organization of American States. A few years later there was a problem between Venezuela and the Dominican Republic. The Dominican Republic was accused of intervening in the domestic affairs of Venezuela. The most complicated case was that of the Dominican Republic in 1965; American troops and, later, an inter-American force, entered in order to maintain peace. Similarly, in Africa we had the Congo, Biafra's attempt to secede from Nigeria, and more recently, Chad. Some of these cases were dealt with by the United Nations, others by the Organization of African Unity.

There have been, therefore, many instances in which the problem arose of how international organizations were going to deal with problems of civil war. As a result of the Congo incident, many books and articles have been written which provide various ways for defining in which situations and by what means international organizations can properly intervene in order to maintain peace. One of the crucial issues in this connection is the interrelationship between internal conflicts and the United Nations preventive action to maintain human rights in a country, to help to ensure their observance, and thereby to prevent the necessity for people to rebel. We need to remember that the preamble to the United Nations Universal Declaration of Human Rights² states that if the rights recognized by the Declaration are constantly violated, people have as the last resort the right to rebel against the oppressive government, as was done by the American colonies when they rebelled against the British government two centuries ago.

In view of all these problems, the United Nations has been trying to do three different things. First, the United Nations had to develop the basic principles of intervention. Most of them were borrowed from the Charter of the Organization of American States,³ especially those on intervention, but they went much further concerning the limitations on help to guerrillas and the problems of interference by various means. The United Nations Declaration on Friendly Relations,⁴ the Declaration on Inadmissi-

² Universal Declaration of Human Rights, G.A. Res. 217 A, U.N. Doc. A/810, at 71 (1948).

³ Charter of the Organization of American States, *done* Apr. 30, 1948, 2 U.S.T. 2394, T.I.A.S. No. 2361, 119 U.N.T.S. 3.

⁴ Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations, G.A. Res. 2625, 25 U.N. GAOR Supp. (No. 28) at 121, U.N. Doc. A/8028 (1971), *reprinted in* 9 I.L.M.

bility of Intervention,⁵ and several other documents have been broadening or clarifying the law on the subject over the last 20 years. Second, as noted previously, the United Nations has been trying to resolve problems with the regional organizations concerning the division of power between them and the United Nations. Third, the United Nations has been trying, as mentioned before, to take preventive action in some dangerous situations, in order to provide better protection for human rights, and attempting to intervene early enough to prevent an explosion. I must admit that, concerning the third approach, the United Nations has been least successful, and terrible things have happened as a result. In Bangladesh, millions of refugees escaped to India from rigorous military oppression and caused India ultimately to intervene militarily to the great dismay of the United Nations. On the other hand, there was great relief in United Nations circles that somebody finally did something about the situation. As we mentioned yesterday, there is always this double problem: first, you want to protect human rights, and second, you do not want to intervene. At some point, these two interests clash and one or the other prevails.

Finally, I want to mention that at this point the United Nations, on the initiative of Jordan, has been asked to study the international humanitarian order. At the last General Assembly meeting the matter was discussed only slightly, but it was put on the agenda of the future Assemblies. This is a very current and important subject, and I hope that we get a bit enlightened about this difficult problem today.

1292 (1970).

⁵ Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty, G.A. Res. 2131, 20 U.N. GAOR Supp. (No. 14) at 11, U.N. Doc. A/6014 (1966), *reprinted in* 5 I.L.M. 374 (1966).