The Fundamental Norms and Principles of the Law of Peace

(I[st] part)

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The organization of peace, its preservation and consolidation requires a system of principles and norms that constitute – obligatorily – the *spinal column* of peace structure. Being the outcome of millennial experience, these norms and principles have become precise, enriched and developed especially in our contemporary age, enjoying a permanently wider recognition. The necessity of their observance has been often emphasized in earlier times, as well. Nowadays, mainly after World War II, the enactment of a system consisting in norms and principles to assure the enhancement of peaceful interstate relations has represented a priority concern of greatest importance in peace assurance.

§1. The contents of the Law of Peace

An efficient edifice of peace presupposes *durable* structures in order to be able to organize and orientate international relations on the path of peaceful co-operation. Such structures find their expression in the contents, the very substance of the Law of Peace, namely in the norms and principles it relies on. It is justified by the fact that their absence would make impossible the edification of peace and their violation would obstruct the achievement of the world forum's principal attributions and functions: the maintenance of peace and international security. The norms and principles of Law of Peace constitute a *spinal system,* they complete each other, contributing, in their totality, to the organization of a relational system within which peace and co-operation can be assured.

A. The importance of the norms and principles of the Law of Peace

There is no doubt that the positive development of international relations in our contemporary age can be achieved only by observing the legitimate will and interests of peoples. The solid foundation on which there could be built new co-operation relations between States, the *principal factor* able to guarantee the recovery of international atmosphere, the liquidation of insecurity and tension existent between States, consists in the strict observance of each people's inalienable right to solve its own problems, to find its own way to development and the form of social organization with no interference from the outside.

The multilateral development of international co-operation, the assurance of peace and security in the world have as premise the possibility that each people assert freely its national being and personality, enjoy without any constraint all conditions necessary to its economic and social progress, on the grounds of generally acknowledged norms and principles of international law[1]. The statuting of normal interstate relations, the promotion of each nation's legitimate interests, the consolidation of progressive forces all over the world and the diversification of exchanges of material and spiritual values as a means of rising the prosperity of each people are directly conditioned by setting international relations on the grounds of law principles. They are to do away with force and constraint methods, leading to the instauration of the reign of reason, spirit of justice and equity within international life – the only elements meant to govern relations between

States. The peoples of the world assert, in a constant and firm manner, their sincere adhesion to the cause of understanding and co-operation between States, based on the principles of law and pacific coexistence. It has been seen in the observation and application of these principles a *sine qua non* condition for the enhancement of normal relations between countries, the avoidance of interstate conflicts and ridding the peril of a world war. Undoubtedly, international events prove the justice of the policy based on these principles which acquire a permanently larger recognition of States and peoples all over the world.

B. A Complex and Sustained Codification Process

Due to their outstanding importance in the maintenance of peace and international security, the fundamental principles of international law have undergone a complex and sustained *codification* process[2]. It is known that ever since World War II, within conferences dedicated to the edification of an international organization efficient in the maintenance of world peace and security, it has been organized the most remarkable principles of law and justice in the life of the Planet. Over the years, these principles have seen a continuous enrichment and development. The most significant moments of this process are: the 1955 Conference of Bandung, dedicated to the support of general peace and co-operation; the 1957 Cairo Conference of solidarity between African and Asian countries; the 1958 Accra Conference of African countries; the 1961 Belgrade Conference and the 1964 Cairo Conference of non-aligned countries; the 1963 Addis-Abeba Conference of African countries, which adopted the Charter of the African Unity Organization; the Conference on security and co-operation in Europe which adopted in 1975 the Final Act, a document of greatest importance for the settlement of relations based on mutual respect between the countries on our continent; the negotiation and adoption of important documents by the UN General Assembly. We mention, for instance, Resolution no. 1236 (XII) regarding good neighbourly relations between European States belonging to different socio-political systems; Resolution no. 1495 (XV) concerning co-operation between UN member States; Resolution no. 1815 (XVII) on the examination of international law principles regarding friendly relations and co-operation among States, in conformity with the Charter of the United Nations.

Obviously, an extremely significant moment in this codification process has constituted negotiation for a longer period of time as well as the adoption, made in 1970 by the UN General Assembly, of the Declaration on international law principles regarding friendly relations and co-operation between States, according to the Charter of the United Nations. The text of the declaration said, has been elaborated during several years, starting in 1964, within the works of a special committee, made up of 31 States, among which Romania as well.

Lately, within the world organization, it is examined the enhancement and the codification of certain important principles of international law. Therefore, in a special UN Committee it has been approached the issue of increasing the *efficiency* of the principle of renouncing to force and threat by force within international relations. Moreover, the Special Committee for the UN Charter and the increasing role of the organization said, has elaborated the Declaration on regarding the pacific settlement of conflicts between States, as a result to the initiative made in 1979 by Romania. The Declaration has been finalized and adopted by the UN General Assembly within its XXXVIIth session.

C. Analysis on the Contents of Fundamental Principles and Norms of the Law of Peace

The analysis made on the contents of fundamental norms and principles and norms constituting the Law of Peace helps us understand their particular significance in organizing and developing peaceful relations. Such an analysis, furthermore, places emphasis on the role that each and every principle generally plays in the edification of peace, in the systematic and vertebrate structuring process as well as in the global vision of guaranteeing world peace.

a. Renouncing to Force and to Threat by Force Within International Relations

Historical experience, millenniums of strain and armed confrontations, endless wars endured by mankind prove convincingly that renunciation to force and to threat by force, the obligation of States to refrain, within their international relations, from resort to threat by force or to use force either against territorial integrity and the political independence of any State or in any other way not in being in accordance with the aims of the United Nations[3] represent **1.** *the fundamental link* for building peace in the world; **2.** the essential norm of the Law of Peace; **3.** the indispensable norm for guaranteeing the development of pacific relations between peoples. Undoubtedly, world peace can be built only on the solid foundation of justice and truth and not on doubt, strain and insecurity. Renunciation to force and to threat by force, the sanctioning, application and generalization of international law principles within all States, constitute the durable indispensable foundation of new order. Nowadays[4], it is more and more insistently claimed the elementary need that within the relations between States, nations and peoples, the force of law should triumph and old practices based on the "right" of force should be abolished for good.

Renouncing to force and to threat by force represent the fundamental link for building peace in the world, as it is only this way that relations of *trust* can be built between nations. Thus, it can be achieved one of brightest aspirations of peoples: good understanding, pacific development, safe from other peoples interference in one's domestic and foreign affairs. Assuring peace implies: the definitive abandonment of the concept of *the right of the strongest;* the recognition of the equal rights of all – regardless their size, economic or military power – to peace and security. Not resorting to force and threat by force – here including the prohibition to make recourse to armed forces, political, economic or other type of pressure, that is any act implying force – represents a condition for guaranteeing peace and international security, the development and progress of all nations.

The edification of a system of peaceful relations all around the world reflects the hope of peoples to do away with practices and methods based on force, the requirement to exclude the state of doubt and insecurity[5]. The use of force and threat by force within international relations represents the outcome of societies based on social exploitation and national oppression.

The development of humanity, steps taken forward for civilization, during the last decades, outlined more clearly, even in international documents, the imperative need to relinquish force[6] in interstate relations.

Following the tragic experience of World War II, the actions of States with regard to rid any manifestation of force policy and that of threat by force, acquired new valences; it became a constant concern. From the very constitution of the United Nations Organization it has been pointed out the need to abolish force in international relations[7] and settle a peaceful, trustful and secure climate for all nations. Even in the preamble of the *Charter* it is proclaimed the decision of peoples belonging to the United Nations of not to make recourse to force in interstate relations, by being consigned their will to act with regard to the achievement of this major desideratum. "Let us develop friendly relations among nations based on tolerance – is sanctioned in this fundamental document –, let us take effective collective measures to maintain international peace and security", statuting the obligation of all members of the Organization to refrain in their international relations from the threat or use of force (art. 2). Thus, from the very adoption of The Charter and the creation of the world organization said, it has been solemnly stipulated *the passage to a law of peace,* of good neighbourly relations, of understanding and coexistence of all nations. In last years' international debates, particularly in those made in the plenum of the UN General Assembly, it has been emphasized that interstate relations had to be based on new principles, by totally giving up the system grounded on *imposing the right of the strongest.* Moreover, it has been underlined that "increasing rivalry constitutes one of the major causes of the deterioration of interstate

relations, *on force positions,* aiming at the extension of interest and influence areas"[8]. The assurance of worldwide peaceful relations is unconceivable provided an effective recognition of States' equal rights – regardless their size, economic or military power – to *peace and security*, as it is only this way that there are created conditions for the promotion of co-operation and common effort of States, nations and peoples in a climate of trust and mutual esteem. Under a consistent scientific vision, there are also important the regulations of juridical nature; however, it is unchallengeable that only by means of changing the political contents of international relations it becomes efficient renunciation to force and threat by force. Nowadays, it becomes more and more frequent taking position as well as convictions declared within the world forum and other international organizations, according to which peace implies the participation of States with equal rights in the attainment of the great objectives to surpass underdevelopment and to achieve economic and social progress[9].

Within an international system founded on equity and justice, possible disputes and litigations cannot be solved by using force – it is only by pacific means that they are found solutions. "Supposing that there are two kind of fights – underlined Cicero -, one using words and the other force, and considering that one is proper to man while the other is proper to beasts, we are to resort to the latter one, provided that recourse to the first one is simply impossible[10]. This wise saw, that might have reflected a reality of ancient times, has been added correctives over the years, which brought as an imperative must, the requirement to avoid, regardless all given circumstances, resort to force within interstate relations and make recourse to negotiations, by using pacific political means. Making reference to such a new approach of international life issues, the former secretary-general of the United Nations, U. Thant showed that "no matter the great dangers threatening humankind, they will never be greater than the possibilities we are given in order to hinder them"[11].

In the new terms of the progress seen by human society, as tendencies to the democratisation of international relations appear more and more pregnantly in the innovation processes occurring on a world scale, the elimination of force and threat by force becomes the target of fight assumed by peoples with possibilities of effective completion.

In spite of the fact that the sources of strain are maintained, that mainly during the last years new tensional states and moments as well as serious cases of use of force have appeared as a consequence to changes occurred to modifications concerning force balance on a world scale, there have been and there are still being improved the forms, procedures and means of their prevention and solution under the aegis of the United Nations Organization.

Renouncing to the threat and use of force as well as to all acts constituting factors of insecurity and permanent source of strain, represents a pressing need for the normal development of relations between States. It is a principle and, at the very same time, a fundamental norm[12] of the Law of Peace. Moreover, the *Charter of the United Nations* mentions this principle among its cardinal provisions: "All Members shall refrain in their international relations 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" (art 2 p.4). This principle has been developed and materialized in a series of resolutions and declarations issued by the UN and also other important international documents[13]. The peoples firmly sustain the principle of abolishing force within international relations, they actively militate for the translation of the norms compatible with international legality into the practical terms of interstate relations, as well as for the application of these norms by measures meant to promote a climate of peace and good understanding[14]. The principle of renunciation to threat or use of force – being in an indissoluble connection with the other principles of international law – represents a major premise for international good understanding.

In the Final Act of the Conference on Security and Co-operation in Europe – giving voice to these important desiderata – is adopted the obligation of all participating

States to "refrain from the threat or use of force or any direct or indirect use of force against any other participating State. Moreover, they will refrain from any manifestation of force aiming to make another participating State to renounce to the unlimited exercitation of its sovereign rights[15].

The settlement and the enhancement of a climate of good understanding and worldwide co-operation presupposes recognition and respect for each people's right to freely choose the way of its independent and sovereign development; good international understanding imposes the pressing need to sanction and to translate into practical terms, within the current policy of all States, the imperatives generated by the application of the principle stipulating the abolishment of threat and use of force. The effective adoption of this Law of Peace principle meets the wide consensus in favour of abolishing the acts hostile to detente, generated by the intimidation policy and by all the attempts of deteriorating political atmosphere.

The time passed by since World War II also led to solutions given to further important litigious problems, repeatedly appearing on the international agenda. It is worldwide known that, in that period, significant armed forces and huge amounts of weapons have been concentrated, stirring the legitimate worry of peoples. That is the reason why an important step towards the creation of a climate assuring to each State the possibility to sanction the energies of peaceful work, safe from the threat of aggression, of menaces and political, economic, military or other sort of pressure, should be taken by means of settling a system of guarantees, implying *solemn politico-juridical pledges,* and by undertaking concrete measures specifically designed to make effective non-resort to threat and use of force in turning this fundamental principle of law into an effective reality of international life. Renunciation to the threat and use of force constitutes not only a principle, along with the other relations existing among all the nations of the world, but also an *important political objective.*

This system of guarantees requires the adoption of concrete measures – accepted by the signatory States of the Final Act of the Conference on security and co-operation in Europe – to the end of applying the principle of non-resort to threat and use of force, by all States' firm commitment to render effective – by all ways and methods found appropriate – the obligation to refrain from recourse to threat or use of force within their reciprocal relations; to refrain from using arms race, incompatible with the purposes and principles of the Charter of the United Nations, against the territorial integrity or political independence of any State. They also engage themselves to abstain from any act of economic restraint meant to subordinate to its own interests another State's exercitation of rights inherent to its sovereignty and, thus, assure for itself advantages of all kind; to undertake effective measures which, by their dissemination and by their own nature, constitute phases towards the ultimate objective of general disappointment under a strict and efficient international control; to promote, by ways and means found appropriate by each and every nation, a climate of confidence and mutual respect among peoples, in accordance with their obligation to refrain from any propaganda in favour of wars of aggression or any other threat or use of force against other States, incompatible with the purposes and principles of the United Nations; to concert every effort to settle, exclusively by pacific means, all dispute existing between them, to refrain from actions which might adversely affect efforts in the peaceful settlement of interstate conflicts[16]. Including within the Final Act of the European Conference said, a distinct chapter foreseeing stated measures, confers, undoubtedly, a new dimension to every concern for the definitive removal of force policy from the life of Europe and of the entire world.

The radical way to the integral application, with all the consequences it implies, of the principle of non-resort to threat and use of force consists, without any doubt, in the adoption of effective measures, within a broad programme bringing the world closer to the goal of general and especially nuclear disarmament.

Within the system designed to make non-resort to force effective, the means of informing and influencing public opinion occupy a central role. In this respect, it is necessary that States as well – in assuming their responsibility to forbid any form of war

propaganda – make use of the means of informing and influencing public opinion to *combat force policy,* acts of aggression and interference in other States' domestic affairs, to display and cherish the ideal of peace and brotherhood among peoples. It becomes obvious that for assuming such commitments and for undertaking such measures it is required the participation of each and every State, their concerted and determined action in promoting the system of concrete engagements and measures meant to ensure a peaceful future to the entire humankind.

Last years' debates on aggression – *the most brutal form of international violence* – have proved the real significance of specifying the meaning of this notion in order to make the effort to abolish threat and use of force. As well known, in 1974, the General Assembly fulfilled a difficult task, started in 1950 by adopting the definition of aggression and by recommending that this definition constitute the orientative criteria of the establishment of an act of aggression, namely making use of armed force by a State against the sovereignty, the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the Charter of the United Nations. It is also stated that all reason, should it be of political, economic, military or of any other nature, could not justify an act of aggression.

Although the sense given by the world forum to this form of using force acquires new, significant elements, it does not contain an essential component with serious implications in the practice of international relations, namely, *economic aggression.* However, according to former experience, it could bring about serious consequences in the system of international life. Therefore, resuming discussions and completing the given definition in specifying the complex meaning of aggression, might contribute to the organization of the preventive activities of peoples and nations against all acts running counter to the principles of law and equity, actions based on threat and use of force.

The removal of aggression and all aggressive acts, renunciation to threat and use of force represent fundamental desiderata concerning worldwide peaceful relations, conferring it contents and substance by ensuring it guarantees of achievement. The very act of seizing correlations between the renunciation to aggression and the removal of force, as well as their recognition as fundamental coordinates of a new system of international relations, outline the profound meanings of a peace edifice, based on democratic exigencies, on justice and equity.

Meeting the need to refrain from the threat or use of force and the abolishment of aggression from international life would mean a most significant pledge of States, which would act as an efficient political, legal and moral bridle on aggressive plans or intentions. It is unchallengeable that such engagement would contribute considerably to remove doubt, to limit the sphere of action of reactionary circles which are still counting on the threat and use of force within international relations. In this context, it clearly appears the incompatible character not only with operative international norms, but concerning the whole evolution of international political life, here including the options of the broadest social layers or political groups, of the acts running counter to real tendencies and chances that humanity could benefit of, with regard to the instauration of a genuine pacific order or a security system. Or, in this respect, the promotion of a *manu militari* – type policy, a policy using threat by force and all its derivatives, as proofs of force cannot but seriously harm recourse to force in interstate relations.

It has been believed for quite a long time that the notion of force implied only military actions, here including the acts of open aggression of a State towards another. However, history evinces a more complex nature of this concept, by mentioning economic, political, military and other sort of constraints and pressures. Under this aspect, there are of particular importance the norms set forth by the *Declaration on prohibiting military, political or economic constraint at treaty conclusions,* by witch it is "solemnly condemned resort to threat or use of any form of pressure, either military, political or economic, by any State, with the purpose to constrain another State to complete a certain act related to the conclusion of a given treaty, by breaching the principles of sovereign equality

of States and that of the freedom of consent"[17]. Lately, these interpretations become more and more known and acknowledged.

Experience showed that leaders of State, by giving up the language of menaces, the use and proofs of force, and by manifesting *realism, wisdom and patience,* could well find, by means of negotiations, solutions reciprocally accepted for the most complex and delicate issues of international relations. The interests of detente and security require active and consistent efforts for exploring and using all possibilities – political, economic, cultural, scientific, of co-operation and multilateral contacts – to settle the peaceful interstate relations that so many nations are longing for.

That is why, only calm political actions, constructive in guaranteeing the fertile ground of comprehension and trust between States, could become compatible with some authentical and genuine conditions of peace and security.

Setting interstate relations on the unanimously accepted grounds of law and justice – and, in this respect, the translation into practical terms of the principle of renunciation to force – would contribute to the creation of new premises with regard to the subsequent, gradual, step by step solution found for further problems. This would provide, at the same time, favourable conditions for the enhancement of fruitful and equitable interstate co-operation[18] for the benefit of each country, strongly influencing relaxation in the relations existing between all the States of the world.

It is also to be noticed that renunciation to the threat and use of force is expressly sanctioned in numerous international documents. In occupying an ample space within the documents of the Conference on security and co-operation in Europe, it represents an eloquent illustration of the concrete concern and preoccupation of States for the promotion of a new system of international relations. This constitutes, without any doubt, an important step forward towards the settlement of long lasting peace all over the world. It is also to be emphasized that the mere enunciation of these exigencies is not sufficient. It is required, as well, the adoption of certain measures meant to exclude, for good, the threat and use of force from the sphere of international relations. From such a whole perspective, it could be inferred the particular significance of renunciation to threat and use of force with a view to assure peace and to configure new international relations, which should be founded not on dictate, oppression and subordination, but on the democracy, equality in rights, equity, confidence and the security of all nations and peoples.

b. The Peaceful Settlement of International Disputes

From earliest times, it has been proved that the only alternative to force, aggression and war policy was represented by the peaceful settlement of all litigations. This is the reason why the obligation of States to solve their international conflicts by peaceful means, so that international peace and security be not jeopardized [19], constitute a *major component part* of the Law of Peace, a fundamental principle which statutes the practical modalities for preventing confrontations, conflicts and for the normal development of international relations.

The interdiction of resorting to threat or use of force is *directly related* with the obligation of all States to make recourse to exclusively peaceful means to settle litigations between them. In accordance with the *Charter of the United Nations,* the parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by *negotiations, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means* of their own choice (art. 33 underl. en.). Thus, all States agree that the settlement or solution of all disputes of whatever nature they may be, which may arise among them, shall never be sought *except by peaceful means.* In the light of the provisions foreseen in the Charter, this obligation is in direct relation with the exigencies on the maintenance of peace, international security and justice.

Historical experience, mainly this century's events as well as the evolutions of the present international situation[20], prove that resort to

peaceful means, to negotiations and discussions, as well as to reasonable political solutions, represent *the only possible and logical modality of settling any dispute* or litigation. Peaceful settlement represents a *fundamental component of security,* necessary for the edification of international relations based on the exclusion of force, on mutual trust and understanding. Moreover, recourse to pacific means constitutes *the basic principle of international relations,* as it assures the necessary criteria and conditions for States to reach – by showing good-will and a spirit of co-operation – a rapid and equitable solution on the grounds of international law. Furthermore, solutions brought by pacific means represent *a method,* as it allows States to decide upon the way they would solve litigations among them.

It should be noticed that in the event that it could not be reached a solution by using one of the peaceful means stated in the Charter of the United Nations, conflicting parties *should continue* to seek for a mutually accepted means to pacifically settle disputes between them. The obligation of resorting to pacific means presupposes at the same time that both the conflicting States and the other States *refrain from any acts which might aggravate the situation* so that it may jeopardize the maintenance of peace international security, and thus, impede the settlement of the given dispute by peaceful means.

Starting from the exceptional importance of using *exclusively pacific means* for the regulation of litigations between States, it has been and it is still being manifested a particular interest to find adequate modalities with regard to sanctioning these obligations in juridical instruments meant to develop the provisions of the Charter and of other international documents. In this respect, it is imposed *the pledge of each State to resort constantly and exclusively to pacific means* to settle any conflict, and above all, to negotiations and direct consultations among the parties concerned. Such commitment has to take on a *solemn form,* considering its juridical force, with a view to its *integral* achievement by all States. There is no doubt that this way recourse to pacific means would become a general desideratum of peoples in a *quotidian and permanent modality* of solving all litigations appeared between two States, or, in general, within international relations.

The practice of international relations demonstrates that worldwide maintenance and consolidation of peace and security require solutions to all litigious problems among States by peaceful means, *by political means, by negotiations and discussions.* In the same spirit, the General Assembly of the United Nations debated – starting with 1979 – the problem of *"settling by pacific means disputes among States".* This issue has been examined and largely debated within the political and judicial commissions of the General Assembly. They had adopted several resolutions in this sense[21], submitted and, then, adopted by consensus in the plenum of the General Assembly. The debate of this matter gives expression to one of the fundamental orientations of the activities of the United Nations with regard to the edification of durable peace in the life of the planet. The adoption, at the XXXVIIth session of the General Assembly of the UN, of the *Declaration on peaceful settlement of disputes between States* reflects the contribution, the efforts and the constant concern of the world forum for using exclusively pacific and political means to settle all litigious problems existing in interstate relations. Moreover, the adoption of the declaration said, represents a solemn pledge of all governments[22] and all political leaders to do their best in eliminating for good force policy, dictate, domination and oppression from international relations as well as in refraining from any action meant to endanger peace and international security. The declaration said, has the merit of *bringing to the fore the exclusive use of pacific means and methods* to solve litigation between States. This declaration settles – concomitantly with general principles and exigencies – the solemn engagement of all States to solve litigations existing among them and, generally, disputes in international relations only by pacific means[23]. Such declaration becomes a *solemn politico-judicial instrument,* which gives voice to the decision of States to firmly make their option for pacific means[24] , by acknowledging the role and the significance of these means to seek and find lasting, *durable* solution. Furthermore, the declaration underlines, once more, the harmful character of violent means, the perils of

recourse to the threat and use of force in international relations. Giving voice to their will to resort exclusively to pacific means for the settlement of disputes, by adopting such a declaration, the member States of the United Nations firmly and resolutely emphasized *the role and functions* of peaceful means in peace *maintenance and consolidation,* in promoting conditions for co-operation and understanding among all peoples.

Undoubtedly, the maintenance and consolidation of peace imply resort to peaceful means, to solutions meant to be founded on such means. We are facing *a dialectical conditioning,* that is to say that peace relation not only *desideratively,* but also *imperatively,* requires resort to pacific means, to the whole system of modalities they include for the settlement of a given conflict.

Present times – characterized by a great complexity of international relations and the accentuation of contradictions and convulsions existing in different areas of the world – oblige us to pass from *general declarations,* good intentions, whose value is not to be underestimated, to the *assumption of express commitments* to resort only to pacific means to settle conflicts among them[25].

Solution found by peaceful means constitutes a guarantee for peace, as: **a.** it is only in case that a conflict is given solution by such means that it could be reached a *durable* settlement of imperilled relations, as a consequence to the litigation occurred; **b.** through a peaceful settlement it is achieved the *rapprochement of the conflicting parties,* as an outcome of a better understanding concerning the generating causes of conflict which determined the deterioration of the relations existing between the two States; **c.** resort to peaceful means constitute a *major condition of regaining trust* among the two parties, shattered by the appearance of the state of tension as well as of the originating litigation.

Experience shows that *it is not possible* to achieve a stable settlement of situations of conflict by means of the violent repression of one of the parties, in the attempt to defeat its will and determine it to accept the decision of the strongest party as far as its military-strategic power is concerned[26]. Researches also showed that regulations imposed by violent means had a *relatively short* life[27], as the party forced to accept it *did not and could not forget* the injustice[28] it had to endure. Still, thought and hope yearn to mend and rid injustice, they sprout from the very first moment and gradually develop in time, even if the oppressor – by means of his superior military force, aiming at maintaining an unjust and inequitable solution – accentuates the means of constraint used against the smaller and weaker State. A possible tensional state *smoulders* in the relations among the two parties, while the offended party waits impatiently for the *favourable moment* to act and end injustice committed upon it. This is the reason why, solution based on force *cannot be durable,* cannot determine the resettlement of the natural, normal course of jeopardized relations, as a consequence to the appearance of litigations[29].

Doctrine and practice draw attention to the fact that several essential elements[30] are to be found in the configuration regarding *the stability* of solutions found by pacific means: **1.** option made for pacific means constitutes an evidence for the fact that both parties expressed their *attachment* to these means, finding inappropriate methods based on force, pressure and constraint; **2.** settlement by pacific means hinders the negative evolutions of litigations, as it is able to *prevent* its deterioration into a serious conflicting state; **3.** ending the process during which disputes have been incontestably solved, leads to the reestablishment of the initial course of relations existing between the two parties, pledging for their re-orientation on their natural track. There are created the objective premises of normal coexistence[31] and the shadow of distrust, which set in along with the birth and extension of litigations is being gradually eliminated.

As known, it is only during peaceful settlement that it is achieved the *rapprochement of conflicting parties*[32]. It is hard to believe that in the process of using force and threat by force, pressure and constraints of any kind, the two parties might approach[33]. Relations between them develop under the sign of dissatisfaction and revolt which gain more and more ground, and – usually – materializing themselves in a *new*

outbreak of conflict, which acquires, in many cases, the form of a particularly serious open confrontation. It is only as a consequence to using peaceful means, that parties – by means of the contracts they frequently sign –, in the effort they make to find most appropriate solutions, reciprocally better understand their worries, thus accomplishing a gradual rapprochement – which constitutes a durable ground for regaining the territory lost by the occurrence of litigations, a premise for achieving peace again[34].

Many thinkers have openly asked: where could formulas based on violence really lead?[35]. What kind of mutual trust could there be between the two parties – whose litigation has been "solved" by violent means? Is it possible that – as time goes by – trust be regained?[36].

All these questions were given negative answers. Throughout history, the use of violent means did not and cannot ever constitute a source of confidence[37]. On the contrary, in all cases in which it has been made recourse to violence, to threat and use of force, *suspicion and distrust showed up* with both parties, each of them regarding suspiciously its opposite, and questioning on committed acts and deeds[38].

In the literature of specialty, it has been noticed that resort to peaceful means to settle conflicts occurred, represented the only premise of regaining trust among conflicting parties as – both during efforts made to solve the given litigation and even after it, when the conflict has already been settled – both parties *gradually come into normal relations,* in direct contacts on different planes, trust gaining more and more ground, while the elements of strain and doubt which lasted during litigations have been eliminated. It is easy to understand that it is only in cases in which the two parties manifest political will and act resolutely to do away with the causes of dispute and its consequences, trying by concerted efforts – those truly appropriate solutions, that confidence rises again and suspicion is ridded. This is the climate that germinates the condition of peace and stimulates relations based on it.

c. Non-intervention (non-interference) in Affairs Concerning a State's National Competence

c.1. Intervention and interference in another State's affairs represent an instrument of expansion and domination policy exercised by larger States against smaller and weaker countries. "It is – according to Titus Livius' remark – the attitude of a master towards his servant"[39], while in Herodot's opinion it represents an attitude of "domination and power"[40]. It jeopardizes peace and generates tension and suspicion, along with the wish to "regain the dignity" of those whose right has been violated[41]. In order to maintain peaceful relations, Wolff proved that "States should not harm to each other and that they have the right not to let States interfere into each other's regime"[42]. Meanwhile, Vattel specified that "it is an obvious outcome of the freedom and independence of nations that all of them have the right to self-government according to the ways they consider appropriate and that *none has the least right to interfere in another State's government*"[43]. We find similar points of view with ample and documented contemporary works of law and international relations[44].

Sanctioned by the 1793 French Revolution, this principle has been violated, later on, during the wars waged by Napoleon Bonaparte; non-intervention in affairs concerning the national competence of a State are enhanced in Monroe's doctrine, which by the message addressed to the Congress of December 2, 1823 stated "the free and independent state of the American continent". This *important principle of the Peace of Law* has been frequently invoked by smallest and weakest countries against the larger and more powerful countries' policy of interference in their domestic affairs. Moreover, it has been partially sanctioned by the 1907 Conference of Hague and, then, after World War I, in art 15/8 within the Pact of the League of Nations.

c.2. The obligation of non-intervening in the affairs concerning the national competence of a State represents a fundamental principle of the Law of Peace, as it is only this way that it becomes possible to develop normal relations between States, to preserve and consolidate trust among peoples and to enhance relations of mutual respect.

This principle also has a particular significance in the promotion and maintenance of peace. It is known that great powers – taking advantage of their economic, military, political and technical and scientific superiority – interfere or try to interfere in other States' internal or external affairs[45]. States are vitally interested in the integral settlement and observance of the principle of non-intervention, which explains their large consensus[46] with regard to *Declarations on the inadmissibility of intervention in the domestic affairs of States and on the protection of their independence and sovereignty*[47]. History registers the outstanding importance of defending, enriching and strengthening the principle of non-intervention, a shield to the right of all peoples to freely organize their life according to their own interests and aspirations, with no interference from the outside. Intervention in the domestic and foreign affairs of a State endangers international peace and security. Interference from the outside revokes the given State's freedom of decision, violates national independence and determines a state of great tension among the States involved.

It is a matter of evidence, the fact that not only domestic but also foreign affairs belong to the sovereign attribute of the independent State, as in their practice it is not allowed the interference of other States[48]. This is the reason why it would be considered an act of intervention in a State's international affairs – which, according to art. 2, § 7 in the UN Charter, "are essentially under a State's national competence"-, if a third State tried to prescribe to it the recognition of another State. In the same way, it is to be understood the settlement – or the rupture, suspension, resumption etc. – of diplomatic relations with another State. Certainly, it is not about an internal but an international problem of a State. However, the attempt of any other power to interfere in the way that a State sees the solution to this problem concerning its international relations, would constitute a harm to the exercise of an independent State's sovereignty.

Non-interference in another State's affairs is in a close correlation with non-resort to threat and use of force as well as with the other fundamental norms and principles of the Law of Peace. History shows that intervention in other State's affairs would be usually committed by larger and more powerful States, as the expression of a dictate, subordination and oppression policy. In most cases, weaker and smaller States became the victims of such policy. Interference in domestic affairs is, usually, made by open or subtle pressures that the given States are to undergo. This is why, during the latest decades, mainly the years after World War II, concern to elaborate normative texts in order to put an end to interference in other States' affairs has gained more and more ground. Thus, for instance, art. 1 in the International Pact of civil and political rights, identical, as a text, with art. 1 in the International Pact of economic, social and cultural rights, adopted the General Assembly by Resolution no. 2200/XXI of 16 December 1966, has the following contents:

"**1.** All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

2. All peoples may, with regard to their own goals, freely dispose on their natural riches and resources, without the prejudice of any obligations devolving from international economic cooperation.

3. Party States in the present contract, here included those that are liable for the administration of territories which do not administer themselves freely and territories under trusteeship, shall promote the right to self-determination and shall observe this right, in accordance with the Charter of the United Nations".

Although non-interference in another State's affairs as a fundamental principle and norm of the Peace of Law encounters difficulties and obstacles in the process of its implementation, it gradually continued to make its way. Moreover, it is foreseen that in a short historical time the principle become acknowledged[50], that is to say that it might become mandatory for all States, not only *de iure* but *de facto*, as well.

The principle of non-intervention in other State's affairs is sanctioned in the UN Charter

(art. 2 § 7), in different statutes of other international organizations, as in other multilateral conventions, such as *the Pact of the League of Arabian States*[51], *the UNESCO Constitution* (art. I § 3), *The Charter of the American States Organization*[52] , *the 1961 Convention of Vienna, on diplomatic relations* (art. 41) *and the 1963 Convention on consular relations* (art. 55 § 1), as well as in *the Charter of the 1963 African Unity Organization* (art. 3 § 2). Furthermore, non-intervention has been sanctioned in numerous declarations and other international documents adopted by the conferences of States[53] being, at the same time, steadily, invoked by the Permanent International Court of Justice, in several litigations it has tried[54], as well as by the International Court of Justice[55]. International practice constantly shows the certain significance of observing the principle of non-intervention concerning the exercise – in the terms of co-operation and common effort – of the external functions of States[56]. In the Declaration regarding the principles of international law on friendly relations and co-operation between States it is sanctioned the fact that "no State or group of States has the right to intervene, directly or immediately, for any reason, in a State's internal or external affairs. Consequently, not only armed intervention but any other form of unwarrantable interference or threat, directed against a State's personality or against its political, economic and cultural elements, are contrary to international law". On the grounds of this important international document, no State can apply or encourage the use of economic, political or any other sort of measures to constrain another State to obtain from it any kind of advantages. Moreover, all States shall abstain from organizing, assisting, stirring, financing, encouraging or tolerating subversive or terrorist armed conflicts meant to change, by means of violence, the regime of another State as well as to intervene in another State's internal fights. It is specified that use of force in order to deprive peoples of their national identity constitutes the violation of their inalienable rights and of the principle of non-intervention and that "any State has the inalienable right to choose its own political, economic, social and cultural system with no interference from the part of any other State".

NOTES:

[1] See *Principles of International Public Law,* Edit. Ştiinţifică, Bucharest, 1968; Grigore Geamănu, cit. work, vol. I, 2nd ed., p. 177 and next; Edwin Glaser, *The right of States to participate in international life,* Ed. Politică, Bucharest, 1982; Victor Duculescu, *Continuity and Discontinuity in International Law,* Editura Academiei, Bucharest, 1982, p. 11 and next; M. Niciu, *International Public Law,* Course notes, t. I-II, Cluj, 1956; N. Tatomir, *Course of International Public Law,* Bucharest, 1961; Alexandru C. Aureliu, *Principles of interstate relations,* Bucharest, Edit. politică, 1966; Gheorghe Moca, *State sovereignty and Contemporary International Law,* Bucharest, Edit. Ştiinţifică, 1970; M. Virally, *Droit international et décolonisation devant les Nations Unies,* in A.F.D.I. Paris, 1963, 1964; G. I. Tunkin, *Coexistence and International Law,* in R. C., vol. 95, 1958; R. L. Bobrov, *Sovremennoe mejdunarodnoe pravo,* Leningrad, 1962; D. B. Levin, *Mejdunarodnoe pravo,* Moscow, 1964; H. Waldock, *General Course on Public International Law,* in R. C., vol. 106, 1962; P. Reuther, *Principles of International Law,* vol. 103, 1961; M. Sörensen, *General Principles of International Law,* vol. 101, 1960 etc.

[2] See *Report of the International Law Commission on the work of its forty-seventh session,* 2 May – 21 July 1995, General Assembly Official Records, Fiftieth Session Supplement No. 10 (A/50/10); Also see *Report of the International Law Commission on the work of its forty-ninth session,* A/O/6/52/L 15 of November 15, 1997.

[3] See *Declaration on the principles of international law regarding friendly and co-operation relations between States,* according to the Charter of the United Nations, adopted in 1970 at the XXVth jubiliary session of the UN General Assembly.

[4] See *Declaration on principles governing the relations existent between participating States,* chapter 1A of the Final Act, in the volume *Conference on security and co-operation in Europe,* Edit. Politică, Bucharest, 1975, p. 281-290; *The Charter on the economic rights and duties of States,* resolution no. 3281 (XXIX) of December 12, 1974.

[5] This state of things is deeply rooted in the history of international relations. Numerous thinkers underlined unfairness and injustice caused by the acts of force carried on by the strongest (see Aulus Gellius, *Attic Nights,* XX, 1, 15, Bucharest, Editura Academiei, 1965, p. 495 and next.; P.F. Girard, *La loi des XII Tables,* London, 1914; U. Brassielo, *La repressione penale in diritto romano,* Napoli, 1937).

[6] From the very beginning of this century it has been experienced a certain limitation to using force (the Drago doctrine, 1902-1903); later on, it is sanctioned „the prevention, as far as possible, of recourse to force in interstate relations" as necessity for the normal development of international life (*the conventions regarding the pacific settlement of international conflicts,* signed at Hague on the 18th of October 1907, in Martens, N.R.G., vol. III, p. 377); in 1917 it is solemnly declared that war of conquest is "a most serious crime against humanity" *(Decree on peace,* in Documents of the external policy of the U.S.S.R., vol. I, 1957, p. 12); *it is condemned the aggressor (Treaty of Versailles I,* in Martens, N.R.G. 3, vol. XI, p. 479); in the *Declaration of the Assembly of the Society of Nations held on the 24th of September 1927, it is stipulated that "any war of aggression is and shall be forbidden" (the Society of Nations, A Monthly Digest of Works,* vol. VII, 1927, p. 285). Furthermore, one year later, it is adopted at Paris The General Treaty for renunciation to war, known as *the Briand-Kellogg Pact;* on the 10th of October 1933, it has been concluded at Rio de Janeiro the Inter-American Treaty against war, a treaty of non-aggression and conciliation, also named the *Pact of Saavedra Lamas,* in which several European States took part, among which Romania, as well *(United Nations Systematic Survey of Treaties for the Pacific Settlement of International Disputes,* 1928-1948, Lake-Success, New York, October, 1948, p. 1038 and next).

[7] In the Declaration of the United Nations, adopted at Washington on the 1st of January 1942 as well as in the Charter project of Dumbarton Oaks, adopted in October 1944, it is formulated the principle of prohibiting the use and threat by force, reasserted in the Convention signed at London on the 8th of August 1945 by the U.S.S.R., U.S.A., Great Britain and France, in the statutes of the International military tribunals in Nürnberg and Tokio in 1945. This principle is also statuted in the Pact of Bogota on the 30th of April 1948, in the Charter of the African Unity Organization, adopted at Addis-Abeba on the 26th of May 1963, in the Declaration regarding world peace and co-operation, adopted at Bandung on the 24th of April 1955, in the declarations made by the heads of State and the governments of non-aligned countries, at Belgrade on the 6th of October 1961, at Cairo in 1964 and in Alger in 1973.

[8] Lazar Moisov, *Speech made at the XXXVII[th] session of the UN General Assembly,* October 2, 1982.

[9] See *resolution no. 3362 (S-VII),* September 18, 1975; see *resolution 52/194,* adopted by the UN General Assembly, by consensus, on the 18th of December 1997, A/52/628/Add.6; also see *Global financial flows and their impact on the developing countries,* Resolution adopted by the UN General Assembly, by consensus, on the 18th of December 1997, A/52/626/Add.l.

[10] Cicero, *On Duties,* Bucharest, Edit. Ştiinţifică, 1957, p. 165.

[11] U. Thant, *Message à l'occasion de la journée des Nations Unies,* 1965, *Communiqué de presse,* doc SG/SM/22, p. 2.

[12] See H. Wehlberg, *L'interdection de recours à la force, le principe et les problêmes qui se posent,* in R.C., 1951, I, 78, p. 45 and next; E. Glaser, *The Contribution of Romania to the Progressive Development of Contemporary International Legality,* in R.R.D., 1969, nr. 8, p.59 and next.

[13] See resolution no. 2160 (XXI) and 2230 (XXII).

[14] See L.F. Damrosch & D.J. Scheffer, eds., *Law and force in the new international order,* Rev. by J. Manas, Harvard Intl. L.J., 36, '95, p. 245 and next.

[15] *Declaration on Principles Guiding Relations between Participating States,* within the *Conference on security and co-operation in Europe,* p. 283.

[16] *Ibidem,* p. 290-291.

[17] *The Final Act of the Conference of Vienna on the law of treaties,* § I, Vienna, 1969.

[18] See *Résolution adoptée par l'Assemblée Générale sur le développement et cooperation économique internationale,* nr. 3362 (S-VII), September 18, 1975, see *Global partnership for development: high-level international intergovernmental consideration on financing for development,* A/52/626/Add l of. 18 Dec. 1997.

[19] *Declaration on the principles of international law regarding friendly relations and co-operation between States in conformity with the Charter of the United Nations,* adopted in 1970 at the XXV[th] jubiliary session of the General Assembly of the United Nations; special attention is paid to solving disputes between States within the works of the Special Committee for the Charter of the United Nations and on the Strengthening of the Role of the Organization. Thus, in 1998 it has been decided that this important organism of the United Nations Organization "continue its activity on finding pacific solutions for interstate disputes" *(Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization,* A/RES/52/161 of 16 January 1998.

[20] Also see Gregory F. Treverton, *Nuclear Weapons and the "Gray area",* in F.A., no. 5, 1979, p. 1077 and next; also see Thomas L. Neff and Henry D. Jacoby, *Nonproliferation Strategy in a Changing Nuclear Fuel Market,* in F.A., no. 5, 1979, p. 1142-1143.

[21] Doc., A/C/.1/34/L. 45 of 23 November 1979; doc. A/C.6/36/1981.

[22] Winn, *Règlement par des moyens pacifiques des différends entre Etats,* doc. A/C. 1/34/L.45, of 28 November 1979, p. 18.

[23] Settlement by pacific means – showed the representative of Mauricius – has a particular significance in "the edification of a security system, guaranteeing the independence, sovereignty and territorial integrity of each and every State" (Ramphul, *Règlement par des moyens pacifiques des différends entre Etats, doc.* A/C.1/34/L.45, of 28 November 1979, p.22).

[24] As the representative of Cyprus showed, "the call addressed to all States to immediately co-operate for the elaboration of a Declaration on the pacific settlement of dispute is welcomed by my delegation" (Rossides, *Règlement par des moyens pacifiques des differends entre Etats, doc.* A/C.1/34/L. 45, of 28 November 1979, p. 28).
[25] See *Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization,* A/RES/52/161 of 16 January 1998.
[26] Also see Simone Courteix, *Exportations nucleaires et non-proliferation,* Paris, Economica, 1978, p. 19 and next.
[27] Also see Thomas Parrish (ed.), *The Encydopedia of World War II,* London, Seker and Warburg, 1978, p. 109 and next.
[28] See *ibidem.*
[29] An ample analysis is made within a thorough synthesis appeared under the auspices of the United Nations Institution for Training and Research (UNITAR): K. Venkata Raman (ed.), *Dispute settlement through the United Nations,* Dobbs Ferry, Oceana Publications, 1977, p. 103 and next.
[30] See M.D. Donelan and M.J. Grieve, *International disputes: Case Histories 1945-70, International Relations,* 1978, p. 203 and next. Also see Thomas Parrish (ed.), *cit. work,* p. 504 and next; also see K. Venkata Raman (ed.), *cit. work,* p. 311 and next.
[31] See Thomas Parrish (ed.), *cit. work;* also see Michael Howard, *The Forgotten Dimension of Strategy,* in F.A., no. É, 1979, p. 981 and next; also see K. Venkata Raman (ed.), *cit. work,* p. 234 and next.
[32] See *American Thinking about Peace and War,* edited by Ken Booth and Moorhead Wright, Hassocks, Sussex: The Harvester Press, 1978, p. 21.
[33] See *ibidem,* p. 34.
[34] See Pierre Lellouche, *La France, les SALT et la sécurité de l'Europe,* in P.E., no. 2, 1979, p. 262-263.
[35] See K. Venkata Raman (ed.), *cit. work,* p. 15 and next; also see ample studies elaborated by Jacques Freymond and Phillippe Rondot, in P.E. no. 2, 1979, p. 149-187.
[36] See Jules Robert Benjamin, *The United States and Cuba: Hegemony and Dependent Development, 1880-1934, Pittsburg,* University of Pittsburg Press, 1977, p. 29 and next.
[37] *American Thinking about Peace and War,* p. 183 and next.
[38] See M.D. Donelan and M.J. Grieve, *cit. work,* p. 11 and next. Also see *American Thinking about Peace and War,* p. 189 and next.
[39] Titus Livius, I, 38,21.
[40] Herodot, VII, 133.
[41] Plautus, *Amfitrion,* v. 258 and next.
[42] C. Wolff, *Institutiones iuris naturae et gentium,* § 54.
[43] E. Vattel, *Droit des gens. Preliminaires,* Book II, chap. IV, § 54.
[44] See Grigore Geamănu, *cit. work,* p. 209 and next; Alexandru C. Aureliu, *cit. work,* Gheorghe Moca, *cit. work,* p. 176 and next; P.B. Potter, *L'intervention en droit international moderne,* in R.C., vol. 32, 1930; Q. Wright, *Intervention.* in A.J.I.L., vol. 51, 1957; T. Mitrovic, *The Principle of Non-Intervention in Contemporary International Law,* in Jugos., R.M.P., no. 1, 1964 etc.
[45] See J. Fawcet, *Intervention in International Law,* in R.C., 1961, vol. II, 103, p. 353-354.
[46] The draft of the Declaration said, has been presented by 57 States while the Resolution was adopted with 100 votes 'in favour' and 5 abstentions.
[47] Resolution no. 2131/XX, of 21 December 1965.
[48] For instance, it is up to each independent State to appreciate whether and in which degree it understands to recognize a new State, provided, of course, that the act of recognition or the declaration of non-recognition was not part of an illicit policy, for example meant to prepare an act of aggression.
[50] See Grigore Geamănu, *cit. work,* p. 209 and next.
[51] Art. 8 of this Pact (adopted on the 22 of March 1945) foresees the obligation of each State of the League *to observe the form of government established in the other member States.*
[52] On the grounds of art. 15, "no State or group of States has the right to intervene, directly or indirectly, for any reason, in the internal or external affairs of any State". This principle forbids not only armed intervention but any other form of intervention or threat against the personality of a State or against its political, economic or cultural elements.
[53] For example, the 1955 Conference of Bandung, the 1961 Conference of Belgrade; the 1977 Conference of Manila.
[54] In this respect, litigations concerning the decrees on nationality of Tunisia and Morocco and the case of Aaland Island (1920).
[55] Cases concerning asylum (1950), Nottebohm (1955), Norvegian loans (1957), the right to pass through Indian territories (1957) etc.
[56] See E. Glaser, *La guerre d'agression à la lumière des sources du droit international,* Paris, 1953; B. Jakovlevic, *The principle of Prohibition of the Threat and Use of Force,* in Jugos. R.M.P., 1964, no. 1; R. Glaser, *The Right to Peace,* in S.C.J., in 1958, no. 2, p. 209-248; also see I.V. Sarmazanasvili, *Printip nenapadenia v mejdunarodnom prave,* Moscow, 1958, p. 34 and next.