

Pacific Settlement of Disputes

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UN Charter Art 2 (3) Pacific Settlement of Disputes

- All Members shall settle their international disputes by **peaceful means** in such a manner that international peace and security, and justice are not endangered.

UN Charter, Art 33 Pacific Settlement of Disputes

- 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 negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.
- (Legally binding obligation- Requires Best Efforts- Negotiate in Good Faith)
- Diplomatic staff have been cut in many countries

Other Normative Instruments

Declaration of International Law Concerning Friendly Relations and Cooperation among States

States shall seek early and just settlement of their international disputes by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or other peaceful means

Manila Declaration on the Peaceful Settlement of Disputes

ICJ, Military and Paramilitary Activities Case (1984)

Peaceful Settlement of Disputes is a principle of customary international Law

UN Peacemaking Mandate

- **UN Secretary-General-** Good Offices & Mediation, Special Envoys
- **UN Peacebuilding Commission:** DDR, elections, rule of law, water, health, job creation
- **UN Security Council**, Chapter VI (non-binding) settlement of inter-state disputes, investigation, negotiation, mediation, referral to the ICJ, resort to regional agencies. Calls on states and non-state actors to settle disputes, endorses peace agreements, or recommends settlement procedures. **Modest impact**, in part due to problems with vetos.
- **UN General Assembly** can make recommendations and have emergency sessions, but lacks enforcement powers
- **Regional-** Europe, OSCE, OAS, AU, OIC- Peacebuilding, Peace Fund, Peace Academy- limited staffing, funding, transparency, publicity

UN Charter Art. 55

- Links Inter and Intra-State dimensions of Peace
- Recognition of Economic and Social Welfare, Development, & Protection of Human Rights as preconditions for peace
- Specialized agencies: FAO, IFAD, UNESCO, WHO, ILO, World Bank, IMF

UN Peacebuilding Commission

- The understanding of the United Nations is that peacebuilding involves a range of measures targeted to reduce the risk of relapsing into conflict by strengthening national capacity at all levels for conflict management, and to lay the foundations for sustainable peace and development.
- Support to basic safety and security, including mine action, protection of civilians, disarmament, demobilization and reintegration, strengthening the rule of law and initiation of security sector reform;
- Support to political processes, including electoral processes, and promoting inclusive dialogue and reconciliation;
- Support to the provision of basic services, such as water and sanitation, health and primary education, and support to the safe and sustainable return of refugees and internally displaced people;
- Support to restoring core government functions, particularly basic public administration and public finance;
- Support to economic revitalization, including creating jobs, particularly for youth and demobilized former combatants
- Burundi, Sierra Leone, Guinea Bissau, Central African Republic, Liberia

EU & OSCE

- Treaty of Lisbon, Art. 2. The Union's Aim is to Promote Peace
- European Convention for the Peaceful Settlement of Disputes (1957)
- Peace Building Partnerships- early warning, post conflict recovery- Africa, Latin America, Asia
- OSCE conflict prevention and mediation
- Helsinki Final Act

OAS

- **OAS Charter**- Strengthen peace and security, ensure the pacific settlement of disputes
- Use of peaceful procedures in international controversies
- Peaceful procedures- direct negotiation, good offices, mediation, investigation, conciliation, judicial settlement, arbitration
- **American Treaty on Pacific Settlement** (Pact of Bogota 1948) Use regional procedures before referring to SC, use negotiation, good offices, mediation, investigation, conciliation or ICJ. Compulsory jurisdiction is recognized ipso facto for contentious cases between members, as well as option to seek advisory opinions
- **OAS Peace Fund**- conflict resolution, peace missions address demobilization, disarmament, and peacebuilding
- **Inter-American Peace Forum**

African Union

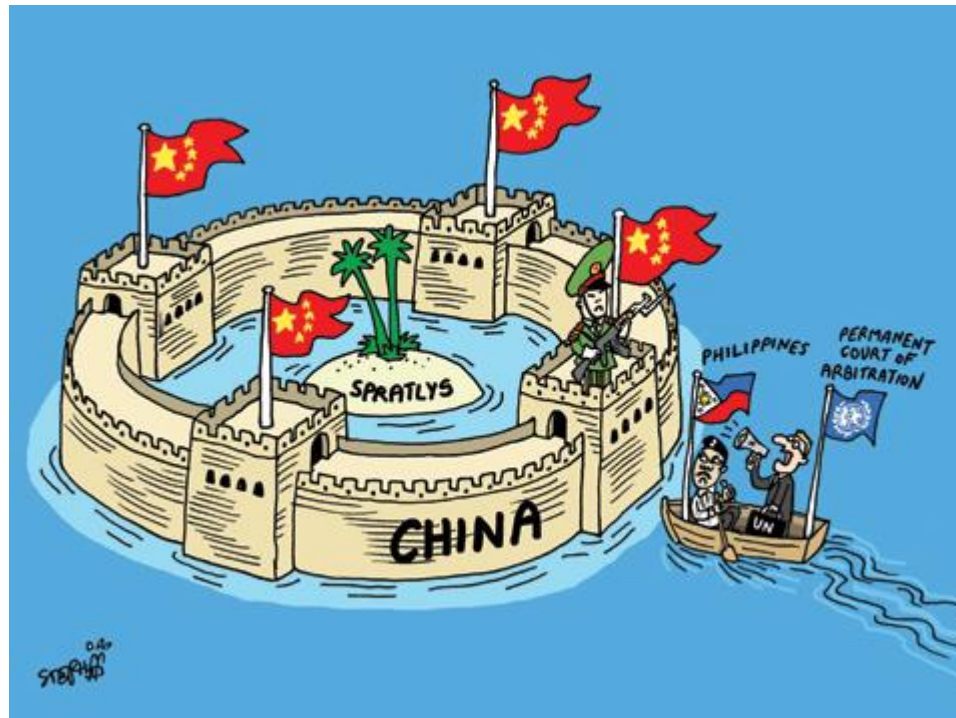
- AU Constitutive Act- Art. 3 promote peace, Art. 4 Peaceful resolution of conflicts
- Non-Aggression and Common Defense Pact (2009), Art. 3 peaceful settlement, art. 17 recognizes primary responsibility for SC in peace and security
- Peace and Security Council, Pax Africana

Organization of Islamic Cooperation

- Peace Security and Mediation Unit
- Syria
- Palestine
- Afghanistan
- Somalia
- Sudan

Arbitration

- Permanent Court of Arbitration, The South China Sea Arbitration (Philippines v. China 2016)



UNCLOS

- **Article 287**

- 1.

- When signing, ratifying or acceding to this Convention or at any time thereafter, a State shall be free to choose, by means of a written declaration, one or more of the following means for the settlement of disputes concerning the interpretation or application of this Convention:

- (a)

- the International Tribunal for the Law of the Sea established in accordance with Annex VI;

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- (b)

- the International Court of Justice;

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- (c)

- an arbitral tribunal constituted in accordance with Annex VII;

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- (d)

- a special arbitral tribunal constituted in accordance with Annex VIII for one or more of the categories of disputes specified therein.

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- 3.

- A State Party, which is a party to a dispute not covered by a declaration in force, shall be deemed to have accepted arbitration in accordance with Annex VII.

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ASEAN

- Read Joint Statement of the Foreign Minister of ASEAN Member States and China on the Full and Effective Implementation of the Declaration on the Conduct of Parties in the South China Sea