of the peace, threats to the peace or acts of aggression. In 1999 ten member states of NATO mounted a bombing campaign against Yugoslavia without the authorization of the Security Council. The question relating to Iraq in 2003, is not whether the use of force may be justified beyond the cases provided for in the Charter, but who makes the determination that such action is necessary. The security system based upon the primary role of the Security Council is not an abstract scheme but reflects the international consensus that individual states, or a group of states, cannot resort to force, for purposes other than self-defence, except with the express authorization of the United Nations.

SETTLEMENT OF DISPUTES UNDER REGIONAL AND INTERNATIONAL INSTITUTIONS

By

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Article 52(1) of chapter VIII of the UN Charter provides that nothing in the Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the purposes and principles of the UN. Article 52(2) stipulates that members of the UN entering into such arrangements or agencies are to make every effort to settle local disputes peacefully through such regional arrangements or by such regional agencies before referring them to Security Council.

Various regional organizations have created machinery for the settlement of disputes. Article XIX of the 1963 Charter of the Organisation of the African Unity (OAU) refers to the principle of the peaceful settlement of disputes by negotiation, mediation, conciliation or arbitration and to assist in achieving this a commission of mediation, conciliation, and arbitration was established by the protocol of 21 July 1964.

Article 23 of the Charter of the Organization of American States (OAS), signed at Bogota in 1948 and as amended by the Protocol of Cartagena de India's 1985, provides that international disputes between member states must be submitted to the organization for peaceful settlement, although this is not to be interpreted as an impairment of the rights and obligations of member states under Articles 34 and 35 of the UN Charter. Since the late 1950s the Permanent Council of the OAS, a plenary body at ambassadorial level, has played an increasingly important role. One example concerned the frontier incidents that took place on the border between Costa Rica and Nicaragua in 1985. In 1923, at the Fifth International Conference of American States held at Santiago, the Treaty to avoid or prevent conflicts between the American states, known as the Gondra Treaty, was adopted, in accordance with which all controversies of whatever character not settled by diplomatic negotiation or by submission to arbitration were to be submitted for investigation and report to a commission of inquiry, consisting of five members. The Anti-War Treaty of Non-Aggression and Conciliation signed on October 10, 1933, was a combination of various earlier agreements.

At the Conference at Buenos Aires in 1936, an effort was made to bring together the existing treaties of pacific settlement and to assist their fulfillment by correlating them

with the new procedure of consultation adopted at the Conference.

The Arab League, established in 1945, aims at increasing co-operation between the Arab states. Its facilities for peaceful settlement of disputes amongst its members are not, however, very well developed, and in practice consist primarily of informal conciliation attempts. One notable exception was the creation in 1961 of an Inter-Arab force to keep the peace between Iraq and Kuwait.

The European Convention for the Peaceful Settlement of Disputes adopted by the Council of Europe in 1957 provides that legal disputes as defined in Article 36(2) of the statute of the international Court of justice are to be sent to the international Court, although conciliation may be tried before this step is taken. Other disputes are to go to arbitration, unless the parties have agreed to accept conciliation. Within the NATO alliance, there exist good offices facilities, and inquiry, mediation, conciliation and arbitration procedures. The Organization on Security and Co-operation in Europe (OSCE) has gradually been establishing dispute resolution mechanisms. Under this convention, a Court of conciliation and arbitration has been established in Geneva. Conciliation may be undertaken by a Conciliation commission constituted for each dispute and drawn from a list established under the convention.

The provisions set out in the UN Charter are to a large degree based upon the terms of the Covenant of the League of Nations. In order to understand the background of the UN system, a summary of the procedures provided within the League for solving disputes is necessary. Article 12 of the covenant declared that any dispute likely to a conflict between members was to be dealt within one of three ways: by arbitration, by judicial settlement or by inquiry by the council of the League. The UN system was founded in constitutional terms with a clear distinction between the functions of the principal organs of the organizations. The primary objective of the United Nations as stipulated in Article 1 of the Charter is the maintenance of international peace and security and disputes likely to endanger this are required under Article 33 to be solved by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means. The Security Council may, by Article 34, investigate any dispute, or any situation which might lead to international friction or give rise to dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security. The General Assembly under Article 14 can recommend measures for the peaceful adjustment of any situation regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations.

Judicial settlement comprises the activities of all international and regional Courts deciding disputes between subjects of international law, in accordance with the rules and principles of international law. After the conclusion of the first world war, the covenant of the League of Nations called for the formulation of proposals for the creation of a world Court, and in 1920 the Permanent Court of International Justice (PCIJ) was created. The PCIJ was superseded after the second world war by the International Court of Justice (ICJ), described in Article 92 of the charter as the United Nations principal judicial organ. The Court's essential function is basically to resolve in accordance with international law disputes placed before it. Article 36(2) of the statue of the Court requires that a matter brought before it should be a legal dispute. It is to be distinguished from a situation which might lead to international friction or give rise to dispute. The jurisdiction of the International Court falls into two distinct parts: its capacity to decide disputes between states, and its capacity to give advisory opinions when requested so to do by particular qualified entities.

In its judgment on jurisdiction and admissibility in the case concerning border and transborder armed actions (*Nicaragua v. Honduras*), the international Court emphasised that the existence of jurisdiction was a question of law and depended upon the intention of the parties. In its deliberations, the Court will apply the rules of international law as laid down in Article 38 (treaties, customs, general principles of law). However, the Court may decide a case "*ex aequo et bono*", *i.e*., on the basis of justice and equity untrammeled by technical legal rules.

The 1982 Law of the Sea Convention, in force since 16th November 1994, contain an elaborate system of dispute settlement, in most cases it will lead to a binding third party decision in one form or another, with arbitration as the default procedure, if other mechanisms of dispute settlement fail. States retain their basic freedom to select the method of dispute settlement in a given case. They can choose other mechanisms than those provided for in Part XV of the convention.

The International Centre for Settlement of Investment Disputes (ICSID) was established by the convention on the settlement of investment disputes between states and nationals of other states, sponsored by the World Bank and entering into force in 1966. Its essential aim is to foster private foreign investment by providing a mechanism for settlement of investment disputes. The process of settlement is initiated by a request filed with the Secretary-General who registers the request unless he finds it to be manifestly outside the jurisdiction of the centre. The conciliation commission will clarify the issues and attempt to bring about an agreement, though its recommendations are not binding on the parties, and its work culminates in a report.

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THE CONCEPT OF STATE AND THE LIMITS BETWEEN INTERNATIONAL LAW AND MUNICIPAL LAW

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The term international law is used in contradiction to national Law national Law is set by the state and operates on the subjects of the state generally within the state's territorial limits international Law on the other hand does not emanate from the state; it exists even outside the state's territory and controls the state it self. International Law deals with states as legal and political entities it consists of the rules and principles which the whole society of states habitually expects its members to observe in their relations with one another. It seeks to deduce from these rules and principles the legal rights and obligations of states in any given situation. *Starke* defines International Law as "the body of law which is composed for the greater part of the principles and rules of conduct which states feel themselves bound to observe and therefore do commonly observe in their relations with each other .

According to *Oppenhein.* "The Law of Nations or international Law is the name for the body of customs and conventional rules which are considered legally binding on civilized states in their intercourse with each other." *Garner* in his introduction to Political Science defines a state as follows state as a concept of political science and constitutional Law is a community of persons more or less numerous permanently occupying a definite portion of territory independent of external control and possessing an organized Government to which the great body of inhabitants render habitual obedience"