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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **SETTLEMENT OF INTERNATIONAL DISPUTES**

## **BY PEACEFUL MEANS**

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### **REVIEW OF LITERATURE**

1. **YV Kiran Kumar, International Dispute and Its Dichotomous Nature, (2020):** There isn't a set definition for the term "conflict," hence in some cases the existence of disputes in the international community is up for debate. Because political accusations and a potential judicial resolution are present in the majority of interstate disagreements. The paper's main topic is a very sensitive and significant one: disagreements between nations and the two polarising ideologies they represent. Additionally, it seeks to define the international dispute in order to outline the scope of the analysis and highlight its key features with the aid of several initiatives taken by international institutions.
2. **Ayesha Hafeez, Modes of Dispute Resolution under International Law, (2021):** The goal of the article is to clarify how disputes can be resolved in accordance with international law. The study offers various options for resolving disputes in accordance with the range of international law. A case study is used to briefly discuss cooperative and coercive techniques of resolution.
3. **Richard Bilder, An Overview of International Dispute Settlement, (1986) :** It is clear that developing workable and palatable solutions to handle and settle international disagreements and conflicts is crucial. This paper, the first of a new law magazine that will focus on concerns of international dispute settlement, offers a structure for approaching the topic. The four inquiries are covered in depth in the essay: (1) When and why must we attempt to resolve these global disputes? (2) Do states have responsibility to resolve their conflicts amicably, and if yes, where do these obligations come from? (3) What categories of international conflicts exist (discussing the nature of the disagreement, the parties involved, its significance, its impact on other countries, and whether judicial or alternative forms of resolution are appropriate)? (4) Does the pattern of



disagreements (how they start, what happens next, the impact of third parties' engagement, and possible outcomes) tend to repeat itself?

4. **Nneoma Udeariry, Peaceful Settlement of International Disputes Assignment, (2011):** The primary court of the UN, the International Court of Justice (ICJ), renders decisions on cases that are brought before it in conformity with international law. However, UN member states are required under Art.33 to settle their differences through peaceful measures, of which the ICJ is one. They are not required to bring their problems to the ICJ. In contrast to local courts, the ICJ's jurisdiction in disputed cases is founded on the parties' agreement to refer their disagreement to the ICJ for resolution. Does the ICJ's consensual jurisdiction preclude it from having any significant and useful impact on the peaceful settlement of international conflicts? An attempt has been to answer this question in this paper.

## **ABSTRACT**

When we refer to a "international dispute," we typically mean a disagreement between two or more states (nations) regarding a legal issue. The phrase includes several components and can be defined broadly in terms of how a person approaches the subject. In the infamous Greece v. United Kingdom (1924) case, also known as the "Mavrommatis Palestine Concessions" case, a dispute was defined as an argument about a legal theory or fact, or a conflict between two parties' legal interests.

These conflicts may develop between nations, organisations, legal individuals, or other bodies worldwide. These disagreements, however, can also result from political, financial, or philosophical differences and are not merely restricted to legal or policy issues. But let's concentrate on issues of law and policy.

The goal of international law is to prevent conflict and violence. It supports using diplomatic, legal, and political basis to settle the conflict in a peaceful and reasonable manner. It includes specific procedures and methods of settling the conflicts that arise among the states in order to reduce the likelihood of war. However, it acknowledges the use of forceful and mandatory measures to resolve conflicts in some out-of-the-ordinary situations that endanger global peace and security.

**Keywords:** Diplomatic, International dispute, Legal, Peace, Political, Security, War.



## INTRODUCTION

We are all aware of the term "dispute," which refers to the most fundamental difference of view or misunderstandings among two parties regarding a specific issue, rule of law, or opinion. "Disputes" occur frequently in daily life and control a significant portion of our existence as humans. Although disputes cannot entirely be avoided, the way they are resolved is always intriguing. Legal disputes, taken more literally, happen when two or more parties disagree on a legal issue<sup>1</sup>.

## RESEARCH QUESTIONS:

1. What are the issues and pitfalls in the existing legal framework and how to address them?
2. What is the current regulatory framework related to peaceful settlement of international disputes?
3. What are the various types and categories of International Disputes?

## OBJECTIVES OF STUDY:

1. To study and analyse the existing regulatory framework related to the International disputes settlement.
2. To study the concept, meaning and types of international disputes.
3. To analyse and compare various means of peaceful settlement of international disputes.
4. To recognise the loopholes in the existing legal framework.
5. To propose efficient and effective ways to address the identified loopholes.

**SIGNIFICANCE OF THE STUDY:** This dissertation explores the concept and types of International Disputes. It more specifically analyses the various mechanisms for the peaceful settlement of International Disputes. In the light of the above points, the proposed study focuses on the gaps and loopholes in the existing regulatory framework and provides some ways to address these loopholes.

**SCOPE OF STUDY:** This paper aims to expand on the term dispute and International dispute along with the international treaties and charters governing the international disputes. An attempt has been made to analyse the essentials, nature and various types of International disputes under this paper.

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<sup>1</sup> Anam Khan, Settlement of disputes in International Law, iPleaders Blog, 29 April 2020, available at: <https://blog.ipleaders.in/settlement-of-disputes-in-international-law/>

## **RESEARCH METHODOLOGY:**

This paper would adopt the doctrinal method of research. This research study examines mechanism for the peaceful settlement of international. The methodology adopted for this paper is a literature survey. The research paper makes use of publicly available information on various websites, online newspapers, journals, commentaries, legislation, case laws as well as reports by different organizations. This paper is based on Secondary data. The Secondary data has been collected from various sources such as books, journals, articles and e-sources. This Research paper is analytical and descriptive and a critical study has been carried out with the help of these secondary data.

### **International Disputes:**

When a dispute involves nations, organisations, jurists, corporations, or private individuals from several regions of the world, it is considered to be an international dispute. The meaning of an international dispute used nowadays is more specific: it refers to a dispute where at least one party is a state or an international organisation, and the other(s) is/are another state, an international organisation, a natural person, or a legal entity from a foreign state<sup>2</sup>.

The point of dispute must be clear. For one to be able to identify the subject of the conflict, at least ostensibly, it must have a matter that is adequately defined. The disagreement must also contain competing claims or statements. This means that in order for the other party to be aware of a party's denial or competing claims, the asserting party must make clear what it wants or feels it is entitled to in relation to the other party. This expression may take the form of words, diplomatic notes, certain deeds, or something else entirely.

Therefore, a dispute encompasses more than a generic dislike or hatred. But at the other hand, two countries may be on cordial terms yet have a precise disagreement that can be regarded as a dispute. Two countries may have broad feelings of hostility toward one another but not have any unique or explicit disagreement one may recognise as a conflict.

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<sup>2</sup> Anam Khan, Settlement of disputes in International Law, iPleaders Blog, 29 April 2020, available at: <https://blog.ipleaders.in/settlement-of-disputes-in-international-law/>

## **Essentials of an International Dispute:**

- Every issue, whether it is domestic or international, has a particular point of contention. This argument might concern a legislation, a policy, or unrelated issues. Therefore, there must be a clear understanding of the subject matter of the argument.
- Although we are aware that there must be a particular point of contention, disagreements must involve what we refer to as a claim or assertion by one or more parties to the dispute since disputes result from the actors' lack of interest in one another.

## **Nature of International Dispute:**

- **Legal International Dispute**
- **Political International Dispute**

When law or policy are the focus of the conflict, it may be referred to as a legal dispute. By using the law and the assistance of legal institutions, these problems are resolved.

When a conflict cannot be resolved by the straightforward application of the law, it may be referred to as a political dispute. Political involvement is the greatest way to resolve conflicts of a political nature.

*“While it is true that most disputes would have traits that would place them in one of the two categories, the type of arguments made by the parties engaged in the dispute can help to determine the issue's true nature”.* It would be political when a party to a dispute makes allegations that are not relevant "legally." It is essential to pinpoint the precise nature of the dispute in order to swiftly settle it using the processes already set forth by international law.

## **Types Of Disputes in International Law:**

Political or legal disputes between two states are possible. It is subjective to draw a distinction between the two. The state might be classified as political or legal depending on its perspective.

States must want to resolve legal disputes on the basis of the law for it to remain a legal disagreement and not become a political one. Nevertheless, only legal conflicts are addressed by the international law's system for dispute settlement. *“In Nicaragua v. Honduras, a case involving Border and Transborder Armed Action, the court declared that it was only interested in the legal facets of the*

*conflict*". The court cannot deal with the political implications of a matter that has both legal and political components. As a result, the term "dispute" has a very narrow definition in international law because it only refers to legal issues and excludes all other types.

*"In International Law, there are two methods formulated for settling legal disputes- amicable or pacific means of settlement, and coercive or compulsive means of settlement"*.

### **Peaceful settlement of Disputes under the International Law:**

According to paragraph 3 of Article 2 of the UN Charter, every international issue must be resolved peacefully by the member while upholding global stability, security, and the rule of law. The *"International Court of Justice (ICJ) ruled in the case of Military and Paramilitary Activities in and against Nicaragua that the notion that the disputing parties should try to settle their differences peacefully is complimentary to the notion of unreasonable principles"*<sup>3</sup>.

The parties are entitled to select their preferred dispute resolution procedure because the UN Charter does not specify the manner or means of resolving disputes. *"A list of peaceful methods for resolving disputes, including arbitration, negotiation, mediation, conciliation, inquiry, judicial settlement, and resort to regional provisions, is proposed in Article 33 of the UN Charter based on this idea"*. If the parties to a disagreement are unable to come to an agreement, they are required by Article 37.1 of the UN Charter to refer the issue to the Security Council. The Manila declaration emphasises the member states' legal commitment to settle their disputes amicably, regardless of their choice of tactics, and to refrain from taking any steps that would make the situation worse.

### **Means and Mechanism:**

#### **1. Negotiation**

A method for states and organisations to use diplomacy to resolve disputes peacefully. Negotiation without the use of a third party arbitrator primarily entails the parties establishing communication and resolving their disputes. *"The series of SALT (Strategic Arms Limitation Talks) discussions between the United States and the Soviet Union between 1972 and 1979 is a well-known illustration of this"*.

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<sup>3</sup> Mohit Choudhary, Peaceful Means of Dispute Settlement, Legal Services India, available at: <https://www.legalserviceindia.com/legal/article-1828-peaceful-means-of-dispute-settlement.html>



In addition, a resolution titled "Principles and guidelines for international negotiations" that was enacted in 1998 addressed the formats, procedures, and conclusions of negotiations and is available through the UN's Legal Office.

## **2. Enquiry**

Under the Hague Conference of 1899 and 1907, a commission was established, and it ruled over the issue. The commission's investigation of the dispute's facts is its only goal. A good illustration of how a commission actually operates is the panel established to examine the evidence surrounding the conflict between Libya and Syria. Another notable illustration is the panel established to look into the assassination of President Burundi on October 21, 1993. The Guatemalan "Historical Clarification Commission" is another illustration<sup>4</sup>.

## **3. Mediation**

In this procedure, a third party directs and participates in negotiations between disputing parties. It is anticipated that the impartial and fair assistance of the third party, or "mediator," will be provided. It is one of the methods of peaceful dispute resolution that states use the most frequently. The UN General Assembly appoints the mediators, who may be persons, organisations, or other states. An excellent illustration of this was Algeria's role in the 1981 "Algiers Accord," a disagreement involving Iranian students and the US embassy.

## **4. Conciliation**

Conciliation often entails the formation of a commission to carry out the two crucial tasks of gathering information and compiling a report on its conclusions to provide fair and amicable approaches to resolve the conflict. The "Jan Mayen Award," given by the commission established in 1981 to resolve the dispute between Norway and Iceland, would serve as an effective illustration of conciliation.

## **5. Arbitration**

Arbitration is a highly common technique that is frequently used for commercial and business objectives. Typically, a tribunal is established to make an award that is enforceable against the parties.

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<sup>4</sup> Peaceful Settlement of Disputes in International Law, Law Bhoomi, 8 June 2021, available at: <https://lawbhoomi.com/peaceful-settlement-of-disputes-in-international-law/>

It is entered into with the mutual consent of the parties. The International Chamber of Commerce rules, the London Court of International Arbitration rules, the International Centre for Dispute Resolution rules, the Singapore International Arbitration Centre rules, the Hong Kong International Arbitration Centre rules, and the UNCITRAL rules are just a few of the laws and regulations that govern international arbitration .

## **6. Judicial Settlement**

*“Judicial Settlement entails using clauses from governing international laws to help an international judicial tribunal settle a dispute between parties”*. The European Court of Justice and the International Tribunal for the Law of the Sea are two more instances of international tribunals, with the International Court of Justice (ICJ) being the most well-known.

The most recent case of India v. Pakistan serves as an excellent illustration of the job that the ICJ performs (Kulbhushan Jadhav case)<sup>5</sup>.

## **7. Good Offices**

A third friendly state will attempt to settle the conflict between the two. In contrast to mediation, where the mediator must be present throughout the process, good offices is essentially when a third party offers a settlement without taking part in the conversation or procedure. A state, an individual, or an international organisation can be the third party. The practise of good offices is not subject to any definite norms of procedure under international law. Although Article 33(paragraph 1) doesn't specifically mention good offices as a method of settlement, it shouldn't be interpreted as exhaustively.

*“As an illustration, the Shaat-Al-Arab River boundary dispute between Iran and Iraq was resolved in 1975 thanks to the efforts of the President of Algeria”*.

## **8. Assistance from regional agencies**

Assistance from local government agencies or organisations to assist and resolve conflicts amicably. Because of the specific agency's experience in the issue, this approach may be used. According to UN Charter Article 52, member states may hire a regional organisation to resolve conflicts and uphold

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<sup>5</sup> SETTLEMENT OF INTERNATIONAL DISPUTES, Know Law, 16 January 2021, available at: <https://knowlaw.in/index.php/2021/01/16/settlement-of-international-disputes/>

peace and security. If it is determined that the dispute cannot be resolved, the UNSC is notified or the case is referred to them.

### **Suggestions & Conclusion:**

According to estimates, the UN has recently spent close to \$8–\$9 billion annually on maintaining peace and its various humanitarian initiatives. Recent wars in the Middle East, Africa, and the fight against terrorism have cost the UN a lot of money. Governments from all over the globe will need to reach an agreement in order to genuinely address or settle these problems in order to create peace and security. The majority of these conflicts are man-made and can be settled peacefully via a variety of methods; yet, because of human nature and attitude, world peace and diplomacy often become secondary to ego, belief, and self-righteousness. It may seem impossible to achieve world peace, however it is always worthwhile to fight towards something fair and equal for everybody<sup>6</sup>.

We examined many methods for resolving international disputes, but it's important to remember that not all international governments or actors are covered under the 1945 UN Charter. Non-member states can only participate voluntarily in these. Conflicts cannot be resolved until international parties are able to end their mutual enmity, mistrust, and general disregard. Since we stated at the very beginning of the article that conflict is inevitable, it is important to note that this is the reason we have numerous peacekeeping organisations and forces that are guided by international law, which is focused on cooperation and the promotion of peace through diplomacy and other necessary means.

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