

MULTI-CULTURALISM AND CONTEMPORARY INTERNATIONAL LAW

United Nations Law-Making in an Era of competing Ideologies or colliding Civilisations.

When the Cold War finally ended at the close of the 1980s, symbolized by the Fall of the Berlin Wall, there were some who, rashly, spoke of the End of History and the emergence of a new World Order system led by a single Hyperpower, imposing by style leadership, and by military force if needed, its own distinctive values and value system in the World Community at large, this in place of the preceding Bipolar system of World Order that rested on the twin, Soviet and Western, political-military blocs and the complex system of mutual accommodations and reciprocal advantages that went with it as Cold War gave way to Peaceful Coexistence and more and more to a highly pragmatic Détente between the two bloc leaders. One factor often overlooked in the critical re-examination of that historical Period now past is the conservative, sometimes reactionary, role of the Bipolar legal “rules of the game” in controlling new forces within supporting member-states of the two blocs that were challenging long-time inequities in territorial allocations and in disposition of ethno-cultural minorities within a state created under the imposed [Carthaginian] victors' Peace Treaties at Versailles in 1919. The implosion of the multi-cultural, plural-ethnic state of Yugoslavia is the most striking example of this, although its demise had been freely predicted as likely to follow on the passing of its charismatic post-World War II leader, Tito. What is even more striking is the apparent absence of any coherent, well thought out plans or even dialogue among the European leaders of the time as to what to do to ensure a peaceful outcome of whatever sort: whether by way of a European-brokered and guaranteed territorial rearrangement on the model of the pan-European statesmen at the Congress of Berlin in 1878, with provisions for internationally supervised and financed exchange and transfers of populations where desired; or else by way of new and more imaginative proposals for constitutional restructuring within the existing state on a determinedly confederal basis that would safeguard claims to regional autonomy and pluralism in representation in central, federal institutions and decision-making processes. The problem remains unresolved in large part even today, almost two decades later. One question, mitigating any rush to judgment as to the absence for most of the time, of successful initiatives or even common consensus on the part of the European leaders, West and East, must be as to the effect of the various interventions, diplomatic and sometimes military, of non-European actors, and as to whether these were helpful or otherwise in reaching concrete, long-range solutions.

The United Nations was, at all times and of necessity a major player. It had had its own experiences with the challenges of Multiculturalism as the World Community, in its legal membership, expanded from the original Founding Fathers at the San Francisco Conference in the Spring of 1945 that drafted the UN Charter. From 45 to 60 members after the first decade and then, under the impact of Decolonisation and Sovereignty and Independence for the former European imperial territories overseas, the UN has expanded in rapid stages to just under 200 member-states, all represented in the General Assembly. Initially, after the San Francisco Conference, it was seen, correctly in numerical terms, as a Western-dominated institution, reflected in voting patterns and practice in prime institutions like the General Assembly, the Security Council, and most explosively for some critics, in the International Court of Justice. In its early years a main forum for continuation of Soviet-Western Cold War debates at a high level of rhetoric, the UN, as the Cold War gave way to Coexistence and Détente between the two rival bloc leaders, became increasingly an arena for development of

ideas and programmes of the newly-admitted "new" states from the Third World and Developing countries, aided by other, Non-Aligned countries not members of either of the two Blocs. At the same time, slowly and at uneven pace, and sometimes also painfully as in the case of the Court perhaps, the main UN institutions became "representative" in a very real sense of the larger, inclusive, pluralist World Community of today. There are valuable lessons as to the processes by which this was achieved, through the UN's constitutional machinery, in relation to each main institution, and as to the not infrequent reversals of doctrinal-legal positions on the part of some key players in response to changing political scenarios.

Our analysis would not be complete without some concrete, empirically-based examination of experience with problem-solving and conflicts-resolution in past crisis-situations involving competing ideologies or colliding civilizations. The Cold War, Bipolar, inter-Bloc conflict provides an excellent detailed paradigm-model as to the imaginative adapting of legal methodology and also legal arenas and legal processes as sponsored by the rival players to the political exigencies of reaching agreement on an outcome ultimately compatible with the goals put forward by each side. For the particular problem-area under discussion, we can see this clearly demonstrated in the empirical record of negotiation that produced a continuing series of East-West legislative acts, beginning in the earlier Cold War years and accelerating thereafter, on matters ranging from de-Nuclearisation of Antarctica and after that Outer Space, to banning Nuclear testing, and then on to Nuclear Disarmament generally and more comprehensively. These were Soviet-Western bilateral accords, for the most part, in their origins. But other problem-areas, ventured at the same time, and not involving any necessary first step's being taken by the two Bloc leaders -ending Apartheid; banning and also effectively controlling International Terrorism [as directed against international civil aviation]-- were able to be moved to successful conclusion with a remarkable plurality in support by states outside the two Blocs of the time. The extra lesson here is that the World Community consensus-building can operate best when explored also in non-official, trans-cultural international arenas, as a support or supplement to official, state action within the United Nations itself.