

Kluwer Arbitration Blog

Peaceful Resolution of Disputes: We Stand United Against War In All Its Many Forms

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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. 2.3)

The peaceful settlement of international disputes is a fundamental principle of international law. While it can be debated precisely when or where this common principle emerged, it has served as a guiding light since the establishment of the United Nations after the close of World War II. Indeed, ‘**transnationalists**’ look to the United Nations and other international institutions to provide a **framework** for the **domestic and international legal ordre**. Inherent to the transnational legal process is the idea that **peaceful acts**, including conciliatory and amicable dispute resolution, are **preferred** over unilateral tactics, coercion, and sheer force.

Unfortunately, modern history generously provides examples where the peaceful resolution of conflicts was preceded by war, civil unrest, and the senseless loss of innocent lives. For sake of discussion, we describe below a few such conflicts as well as the dispute resolution and negotiation processes that deescalated tensions and created room for amicable relations. In doing so, we do not mean to minimise or ignore the many other conflicts that are still actively taking place, loudly or quietly, around the world today.

- In 1968, the **Rann of Kutch arbitration** resolved a long-running border dispute between India and Pakistan through a three-member tribunal, following the successful cease-fire mediation by the UK Prime Minister, Harold Wilson. The dispute was considered formally resolved a year later, when the parties **signed** more than 1,500 maps and documents showing the border as fixed by the ICJ decision. Mr. Said Mohammad Yusuf, who signed the maps and documents on behalf of Pakistan, **commented** at the time, ‘The process through which this dispute has been settled illustrates that given will and co-operation, all other disputes, however intractable, can be resolved peacefully’.
- In 1988, the **Taba arbitration**, between Egypt and Israel settled a long-running dispute concerning the Sinai peninsula. At the time, as **reported** by the *Washington Post*, Egyptian and Israeli officials noted that the five-member tribunal created a forum for them to resolve a disputed boundary issue that had been percolating since the March 1979 peace treaty was

signed. According to the *Washington Post*, it marked ‘the first time Israel and an Arab government have ended an argument through international law rather than warfare’.

- The **Namibia-Angola settlement of 1988** (The Tripartite Agreement among the People’s Republic of Angola, the Republic of Cuba, and the Republic of South Africa), which secured the independence of Namibia from South Africa, involved a concerted effort by the UN, the US and other world powers. Importantly, the dispute was settled in spite of differences remaining and anger lingering. On the day of the signing, *The New York Times* commented, ‘the sharp words used today by the Foreign Ministers of Cuba, Angola and South Africa and by Mr. Shultz showed that serious differences remain...But the Angolan official also called for the restoration of normal relations with the United States, saying that since the two countries must work together to carry out today’s agreements, “such collaboration could surely be facilitated by the normalization of diplomatic relations”’.
- The **Tajikistani Civil War** began in 1992. UN-sponsored mediations took place *intermittently*, but the dispute was not resolved until 1997, through an armistice facilitated by the UN-mediated negotiation process involving multiple parties, including Russia and the US. It has since been *hailed* as ‘an exceptionally well-coordinated peace process – involving local civil society, the international community, and a newly established Commission for National Reconciliation’.
- The **wars in Yugoslavia** (1991-1995) saw the unsuccessful mediation by the EU mediator, Cyrus Vance, followed by the US mediation under the command of Richard Holbrooke. Ambassador Holbrooke’s month-long negotiation session resulted in the **1995 Dayton Accords**. More than twenty-five years later, the Dayton Accords are *still* referred to as a ‘landmark’ agreement. A *digital exhibit* by the US State Department demonstrates that diplomacy was the key to uneasily concluding the brutal war and horrific ethnic violence. The Serbs referred to Ambassador Holbrooke’s style toward brokering this peace as ‘*getting Holbrooked*’. *Time Magazine* reported at the time that ‘Holbrooke’s staff jokes that the Serbs agreed to a cease-fire just to get him to shut up for a while’.
- The **1995 Ecuador-Peru** war (Cenepa War) ended with the peace treaty of Brasilia in 1998, and facilitated by the guarantors Argentina, Brazil, Chile and the US, as appointed by the 29 January 1942 Rio Protocol for Peace between Peru and Ecuador. The negotiation is *said* to have resolved a territorial dispute that caused two-centuries of conflict.
- The Northern Ireland conflict and the 1998 **Good Friday Agreement** facilitated by the mediation team consisting of George Mitchell (US), Harri Holkeri (Finland), and John de Chastelain (Canada). The mediation team won the respect of both sides and resulted in a historic compromise. As *explained* by the US Institute for Peace, ‘[f]or the first time, the two governments, along with parties from across the divide, agreed on a new political framework for Northern Ireland’.



Map Used in Adjudicating the Rann of Kutch Arbitration in 1968

Most of us who are entrenched in the field of international dispute resolution and arbitration, in particular, are also well familiar with the fact that the *very idea* of establishing the International Centre for Settlement of Investment Disputes (ICSID) stems from **Aaron Broches’ proposal** based

on the numerous occasions on which the World Bank, through its president – and in particular the tenure of President Black (1949-1962), who was involved in the settlement of various disputes by good offices, mediation, and conciliation. In this regard, the **Indus Waters Treaty** merits a special mention: it was entered between Pakistan and India in 1960 in Karachi following the **significant interventions** of President Black and the World Bank itself. This is reflected in the World Bank actually serving as signatory to the treaty – although it only plays a **limited and procedural role** in its performance.

Meanwhile, it is simply impossible to capture here the tremendous role of the International Court of Justice, the Permanent Court of Arbitration, the negotiation and mediation, as well as the ad-hoc and institutionalised arbitration efforts in resolving and – most often, preventing inter-state disputes. At its 100-year anniversary, the **Arbitration Institute of the Stockholm Chamber of Commerce** (SCC) produced a video that we encourage you to view. Titled *The Quiet Triumph*, it demonstrates the role of arbitration in world peace and international affairs throughout the decades.

We recognise that these difficult times make the light harder to find. Despite conflict, we are interconnected in a never-before-seen way. Our world is technologically-integrated and, throughout these past few days, we have had access to raw and unfiltered updates on a real-time basis from friends, colleagues, and strangers that have heightened our consciousness and kept our moral compass properly aligned. Here at *Kluwer Arbitration Blog*, we have received these direct updates from our own Assistant Editors, from our readers, and from our contributors.

However, as a community, we must continue to push: through our work, through our beliefs and values, and by raising awareness and providing access to knowledge. We are equipped with special tools, including the understanding and worldview that comes from engaging with the notion of peaceful resolution of international disputes on a continuous basis.

Education and equitable access to opportunity of course plays an important role. International law education is key to unlocking a brighter future. By creating access to information, exposure to different modes of thinking, and opportunities for cultural exchange and knowledge sharing, we build a more resilient, well-informed, and creative community of international dispute resolution specialists.

These educational opportunities and synergies **have not always existed** and should not be taken for granted. For decades, international dispute resolution was not considered a discrete discipline. Last year, Professor Stavros Brekoulakis **wrote** about this evolution and explained that exploring international dispute resolution as its own discipline reflects a:

‘dynamic idea of arbitration law that transcends the often narrow boundaries of legal fields and legal traditions. Indeed, arbitration scholarship in the last twenty years has become more diverse and interdisciplinary. This is not only because non-arbitration scholars have developed an interest in arbitration, but also because arbitration scholars have started to examine arbitration against a wider context.’

It is, indeed, on this premise that our international community thrives and grows.

Similarly, if technology had not already pervaded every aspect of our lives, the pandemic has

exacerbated the role it plays in educational and other capacity building exchanges. It has enhanced access to information and access to each other. This too is not something to be taken for granted and instead presents our community with an opportunity to continue to support one another in favor of a brighter future.

We therefore urge our community, during these challenging times, to draw upon our international dispute resolution toolkit. We have transnational frameworks and institutions, lessons learned from prior conflicts, disputes, mediations, and peace talks, and educational and other resources that are readily available. We also have one another as a community. We are optimistic that among these resources we will find what is needed to support efforts to negotiate in favour of, and ultimately achieve, peace. We urge that we support one another, continue to receive students and young practitioners to pursue their internships, offer them the support that is needed, and encourage access to education and knowledge – as a service to the next generation of lawyers and leaders.

At *Kluwer Arbitration Blog*, as [expressed yesterday](#) by Professor Roger Alford, we stand for peace and against genocide. We stand for access to education, access to knowledge and equal opportunities. We stand for friendship and collegiality, with our diverse and culturally rich community – and we celebrate this! We say **NO** to the war and **NO** to its unimaginable consequences on the lives of ordinary people.

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