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International Organizations' Responsibility For Their Actions And Its Ramifications: The United Nations And The Russian-Ukrainian War

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Abstract

International organizations play significant roles in various aspects of international affairs, including economics, politics, social issues, the environment, and commerce. This has led states and international law scholars to recognize international organizations as legal entities capable of independent activity separate from member states. Consequently, it is important to examine the international responsibility of international organizations for their actions. This study is divided into two sections. The first section discusses the nature of international organizations' responsibility, stating that their actions must be illegal and in violation of their international obligations. These actions must be attributable to the international organization through the involvement of its representatives or organs, resulting in harm to other subjects of international law. The section also presents cases where the responsibility of international organizations is not applicable due to impediments similar to those affecting states' international responsibilities. Therefore, recognizing the legal personality of an international organization allows it to have rights and responsibilities. As a result, the organization can be held accountable for illegal actions committed by its employees or organs.

Keywords: International organizations, International responsibility, United Nations, Violation.

Introduction:

International Organizations (IO) play significant roles in all aspects of international affairs; economically, politically, socially, environmentally[1], and commercially. This prompted states and scholars of international law to recognize an international organization as a legal personality; it may exercise its activities completely independently from member states. IO has the power to do whatever achieves the purpose of its establishment. They have official representatives and employees working for and in their name and responsibility.

Since international organizations are persons of international law and enjoy legal personality authorizing them to acquire rights and bear obligations, their actions and the extent of their responsibility for those actions should be considered. The organization, in the framework of its activities

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and tasks, can harm others; and so is one of its employees. Failure to issue resolutions by the international organization and its negativity regarding global issues that threaten international peace and security (such as the failure to issue an urgent resolution by the Security Council regarding Russian hostilities against the Ukrainian State) may harm, too). May the party harm request realization of responsibility against the international organization for doing a given action or abstaining from doing it?

The party harmed as a result of the positive or negative behavior of the international organization, be it a state, a normal or legal person, may demand the realization of its responsibility, which is not addressed in international law related to the responsibility of states. These rules did not explicitly refer to the responsibility of the international organization as the responsibility of the state, prompting the International Law Commission to allocate one of the topics of its work to discuss the responsibility of IO.

The current work explores the international responsibility of an international organization for its actions and the extent to which there is an international legal regulation of the rules of responsibility of the IO. The conditions for its realization, impacts, and impediments to the realization of that international responsibility are researched, too.

The problem of the study: lack of clear legal rules that identify the accountability of international organizations. for their decisions or actions taken, or the ones they refrain from taking; by not taking decisions to achieve the goals for which the organization was established. The absence of clear mechanisms through which organizations are held responsible is discussed, too. The party harmed may claim compensation for the damages incurred.

The objectives of this study lie in the following:

1. Investigating the legal personality of the IO and the extent of its international responsibility for the actions it undertakes, positive or negative.
2. Studying the conditions for realizing international responsibility against the IO and the extent to which they differ from the conditions for realizing the international responsibility of states.
3. Identifying the obstacles to achieving the international responsibility of the international organization.
4. Studying the legal implications of realizing the international responsibility of the organization, and the person with the authority to approve the international responsibility of the IO.
5. Formulating international legal texts that define the controls of the international responsibility of the IO, and the role entrusted to the International Law Commission in this respect.

The importance of the study: spotlighting the need for clear legal rules to determine the international responsibility of the IO, given their important role in all aspects of international work; they can benefit the international community, but in some cases, they may do harm to others as a result of their actions during the performance of the desired role, or its inaction or refraining from exercising this role. This necessitates compensating the party harmed as a result of the conduct of the international organization.

This work seeks to answer the following questions

1. What is an international organization and does it have an international legal personality?
2. Is the international responsibility of the IO realized? What are the conditions for this?

3. Are there international legal rules regulating international responsibility for the work of an IO?
4. What are the legal implications of realizing the international responsibility of an IO?
5. Can the United Nations be held responsible for the Russian-Ukrainian situation, or does it need more powers?

Methodology

The descriptive analytical approach, studying the nature of the international responsibility of international organizations and the impediments to its realization, is employed. Then, the legal texts regulating the realization of the international responsibility of the IO and the legal implications of the realization of that responsibility are analyzed.

Limits:

Spatial boundary: all countries of the world members of international organizations
Time limit: as of the founding of the United Nations in 1945
Objective limit: international responsibility for the positive and negative actions of international organizations

Plan:

Subject one: What is the international responsibility for the work of the international organization and the obstacles to its realization?
Topic one: international responsibility for the work and pillars of the international organization
Section one: The unlawful act
Section Two: Attribution of the unlawful act to the international organization
Section Three: Occurrence of damage
Topic two: Impediments to the responsibility of the international organization
Section One: Voluntary reasons
Section Two: Involuntary causes
Subject two: Legal implications of the international responsibility of the international organization
Topic one: Ceasing the illegal act
Topic two: In-kind damages
Topic three: Compensation
Topic four: Appeasement

Subject one: What is the international responsibility for the work of the international organization and the obstacles to its realization?

Preface and division: IO plays an active role in the various fields of international action, which necessitated granting them the international legal personality to help them be an active part in international relations. In the framework of implementing their work and achieving their goals, they can cause harm to others, though, be they states or persons, normal or legal. There are some cases in which this damage occurs, but the IO is not accountable for providing a reason for that responsibility.

Topic one: The nature of the international organization and the international responsibility for its actions
Topic two: The obstacles to the international responsibility of IO.

Topic one: The nature of the IO and the international responsibility for its actions

Before studying the international responsibility (IR) of the international organization, the definition of the international organization and its international legal personality is provided, then comes its international responsibility for its actions and the elements of that responsibility.

Section one: The nature of the IO and its legal personality: A. The nature of the IO: Contemporary international law does not contain a unified formal definition of the IO, which gives jurisprudence the freedom to define it. It was defined as: "a group of persons of international law established by a limited or collective international treaty, and provided with permanent organs through which it expresses self-will independent of the will of its members (Youssef, 2018, p. 362).

Another definition of IO is: "A body that includes a group of countries permanently in pursuit of common goals and interests among them, and this body enjoys independence and a special capacity to express self-will in the international field (Al-Anani, 1998, p. 20).

Yet, when searching for a consensual definition of an IO, we did not find a unified definition, which called for jurists of public international law to develop multiple definitions: "An international entity established under an agreement among a group of countries, to achieve certain interests, and enjoying a legal personality independent of its constituent member states, operating under a charter defining its powers and exercising its function through permanent organs operating under the charter".

B. The legal personality of the IO: In the past, international jurisprudence denied any legal personality of the IO and considered the state to be the only international legal person (Atia, 2007, p. 96), but this quickly changed as of the nineteenth century. Organizations international were recognized as international legal personalities (Bouzid and Al-Hamwi, 1424, p. 164). Thus, the existence of a legal personality of the international organization away from its member states has been established, and the realization of the legal personality results in the ability to acquire rights and bear obligations, which is very important so that the legal person can conclude legal actions. At the international level, another condition must be fulfilled for the legal person to acquire international status, and this condition relates to the extent to which this person can establish the rules of international law, especially in the absence of legislative authority at the international level. To study the international legal personality of the international organization, it is to be handled at the internal and external levels:

-The internal legal personality of the IO: An international organization usually arises from the agreement of a group of countries, and it is agreed to specify a permanent headquarters for that organization within one of these countries, unlike a state that has territory as a crucial part of its international legal personality. An international organization exercises its activities on the territories of all its member states, or other countries in which it exercises its competence (Sherif, 2021, p. 88).

IO exercising its activities on the territories of the member states usually needs headquarters for its work, devices, and equipment, and contracting with employees and companies to meet their needs. This requires the availability of the legal personality of the organization to carry out these actions.

International organizations acquire the internal legal personality from the charters of their establishment. They are manifest in texts: (Constitution of the International Labor Organization Article 39, Charter of the World Trade Organization Article 8/1, Charter of the Food and Agriculture Organization of the United Nations Article 16).

Examples:

-Article 104 of the Charter of the United Nations (UN): "The Commission enjoys in the country of each of its members the legal capacity required to carry out its functions and achieve its aims" (United Nations Charter, 1945)

Article (17/1) of the Charter of the Cooperation Council for the Arab States of the Gulf: "Privileges and Immunities:

The Cooperation Council and its organs in the territory of each of the member states enjoy the legal capacity and the privileges and immunities required to achieve its objectives and perform its functions (The Charter of the Gulf Cooperation Council, 1982).

Recognition of the internal legal personality of the IO entails its ability to conclude legal actions with citizens of member states. (There are many legal relations that an international organization can

conclude with citizens of states members, the relationship can be represented in an employment contract for state citizens, lease or purchase contracts for buildings, the supply of equipment and devices, or even maintenance contracts that the organization concludes with citizens of countries). The organization concludes those relations as one of the internal law persons of the member state, but this does not deprive the international organization of the immunities and privileges assigned to it that enable it to carry out the tasks for which it was established. No member state may impede the organization in the performance of its tasks (Youssef, 2018, p. 375).

In the event of a disagreement between the IO and the person contracting with it regarding a contract in a country, the contracting parties enjoy complete freedom in choosing that applicable law, so the law of the country in which the IO carries out its tasks can be applied. Contracts related to the conduct of the IO for its activity, like contracts of its international employees, must be subject to the law of the international public service, which is called international administrative law (Yusuf, 2018, p. 376).

If the international organization adheres to its judicial immunity, which prevents recourse to the internal judiciary, the best way to resolve any dispute is to resort to arbitration based on a previous agreement (arbitration clause) or a subsequent agreement (arbitration clause).

-The international legal personality of the IO: It was previously mentioned that the international legal personality of the international organization was a subject of historical controversy (Möldner. 2012. p328). The state did not accept equality with the IO in terms of its international legal personality (Dupy, Kerbrat, 2020.p. 178). However, with the establishment of the League of Nations in 1920, some opinions began to call for the international character of international organizations, as the organization had affiliated employees and permanent bodies and an opinion independent of its member states (Sharif, 2021, p. 90).

With the establishment of the UN in 1945, this controversy was resolved through the advisory opinion of the International Court of Justice, when it issued its opinion in April 1949 regarding compensation for damages that occur while serving in the UN, in which it expressly referred to the enjoyment of the UNs with international legal personality, even if the charter of its establishment did not expressly state that.

Since then, the international legal personality of the UN and all international organizations has been recognized, as the Court indicated that the UN and other organizations were recognized to exercise jurisdictions of an international nature, and they will not be able to carry out any of their competencies unless they enjoy international legal personality.

The recognition of the international legal personality of IO has several consequences, represented in their ability to conclude international treaties and to send and receive envoys to and from member states. Add to this full freedom to dispose of its revenues and expenditures without interference from any of the member states, as well as granting its employees a set of immunities and privileges to facilitate the performance of their tasks (Dupuy, Kerbrat, 2020.p178.)

Section two: The IR of the international organization and its elements: IR has been defined in multiple ways. Salah Amer, for one, defines it as: "A set of legal rules that govern any action or incident attributed to a person of international law and resulting in harm to another person of international law and the consequences of this; obligation to compensate" (Amer, 2002, p. 726).

After IO and its international legal personality had been recognized, it was necessary to identify the responsibility of those IOs for the actions they perform, just like states. Many sources of IR for the IO exist. The activities and work of the IO may be a cause of responsibility, as well as the international agreements concluded by the organization with other persons of international law; when violating the terms of the agreement, or international norms as the IR of the IO is inherent to acquiring the international legal personality (Abu Al-Wafa, 1995, p. 7). This is for the international responsibility

built based on an illegal act of the organization (the mistake, whether intentional or unintentional), but the IR of international organizations can be divided into two types:

Contractual responsibility: arising when the organization or one of its employees performs an act or refrains from an act that is in breach of the obligations it has undertaken under a contract concluded with states or with other international organizations, or when it breaches the terms of an international contract concluded with other persons of public international law.

-responsibility of remissiveness: arising when the organization or one of its employees violates an international obligation or a rule of international law. This rule is established in the international community through general or special international agreements or international customs. International custom refers to established customs considered as law due to their frequency of use or common law principles, approved by civilized nations, and the harm they may cause to others. (Sharif, 2021, p. 108).

The Russian aggression on Ukrainian lands, which began on February 24, 2022, constitutes a violation of the Charter of the UN; the first chapter of the Charter Article (1/1):

The purposes of the UN are: (1. To uphold global peace and security, the Organization will collaborate on effective measures to prevent and address causes that endanger peace, suppress acts of aggression and other breaches of peace, and peacefully resolve international disputes in line with justice and international law). In the face of this aggression, the UN Security Council did not take any binding decision on the Russian side, as the Security Council failed to issue any condemnation of Russia's use of the veto. The Security Council was unable to use any of its powers contained in chapter 7 of the Charter of the United Nations, Article 42, where the Council did not interfere with the use of land, sea, and air military forces to end that war and maintain international peace and security (United Nations Charter, 1945, Article, 42).

This may be described as a remissive responsibility of the UN to take what is necessary under the provisions of the UN Charter and relevant international covenants to end the Russian-Ukrainian conflict in light of the increasing number of Ukrainian refugees, and the increasing human and material losses as a result of this war. Ukraine accused the Russian state of committing crimes of genocide, and the International Court of Justice (1) (the judicial body of the United Nations) on March 16, 2022 ruled that Russia should suspend military actions immediately, but this was not done by the Russian state, and the Security Council held several sessions to discuss the matter without reaching a binding and influential decision though it was recognized that civilian casualties cannot be denied, as children are targeted and there are accusations against Russian forces of torture, kidnapping and extrajudicial killing (2). Hereby, the UN was unable to take any binding decision against the Russian state, and its role was limited to appeals to Member States and donors to provide aid for the Ukrainian state, support for refugees from neighboring countries, and other ones (3).

The International Law Commission (ILC) put the issue of the responsibility of IOs on its agenda, starting from its 52nd session in 2000, as part of its long-term program of work, at the 2717th session held in May 2000. (p109-A/CN.4/SER.A/2002/Add.1 (Part 2)) At the 63rd session of the ILC held in 2011, at its 3118th session in August, a set of texts on the responsibility of IO was adopted, approving texts of the Articles of IR of the International Organization (A/66/10, 2011).

Elements of the international responsibility of the IO: Many elements realize the IR of the international organization, and they are the same elements that lead to the realization of international responsibility against states, as follows:

The first element: is the illegal international act: the illegal international act of the international organization occurs when it violates the provisions of international law, whether the source of these provisions or rules is international agreements or international norms or a violation of one of the general principles of law. This is provided by Article 38 of the statute of the International Court of Justice (ICJ, Chapter 2. Article 38).

ICJ, also, stated in its advisory opinion on the explanation of the agreement between the World Health Organization and Egypt that international organizations are obligated to comply with general rules of international law, their constitutions, and international agreements to which they are parties." (al-Otour, 2020, p. 44).

The international action that necessitates the responsibility of international organizations may be positive or negative (4) as international agreements concluded by international organizations obligate them to respect the texts of that agreement and implement all that has been agreed upon, whatever the areas of international agreements concluded by the international organization (economic, social, commercial, agreements on headquarters, immunities and privileges granted by countries to the organization, and other aspects of international agreements (Ramadan, 2016, p. 86).

Violation behavior committed by the international organization can be represented in the violation of the provisions of an international agreement, and the international responsibility of the international organization is also found in case its behavior violates international norms (Sultan, 1972, p. 48). Responsibility of the international organization for an illegal behavior that represents a violation of customs of international has two elements:

-Material element: represented in the organization's conduct in violation of one of the international norms.

-Moral element: the belief of the international organization that its actions are legitimate and binding and do not constitute a violation of the customary rule.

The IR of IO also materializes if they commit an act that violates the general principles of law, which are those principles that states believe in and that are valid for application in all legal systems, taking into responsibility the conditions of their application (Buzaid and al-Hamawy, 1424, p. 98). Article 38 of the statute of ICJ states that the general principles of law shall be recognized by civilized countries, be this recognition an explicit formulation of those principles in legal texts in their national laws, or an implicit recognition of non-objection to those principles.

IO, arguably, adhere to these legal principles like states, and if they violate any of them, they are considered a violation and their international responsibility is realized (Bouzid and Al-Hamwa, 1424, p. 92).

The International Law Commission has recognized, in the texts of the articles on the IR of IO, article 1, that the basis of responsibility is the commission of an internationally wrongful act by an IR: Article 1 (the drafts of these articles apply to the international responsibility of an international organization for an internationally wrongful act) (A/66/10, 2011, article: 1).

The texts of these articles have laid down the elements of internationally illegal acts carried out by international organizations, emphasizing that an international act may be negative or positive, stipulating that:

A. attributed to the IO under the rules of international law, convention, customary, or otherwise.

B. violates one of the international obligations of the international organization, whatever the source of this obligation (A/66/10, 2011, Article: 1&10). It is stipulated that this obligation be enforceable against the international organization at the time of the violation (A/66/10, 2011, Article: 11).

The responsibility of the IO may be contingent on verifying whether it has taken the necessary and appropriate means to prevent the commission of illegal acts, or whether the organization gets responsible for punishing those who commit them. Thus, it should have a permanent effective organ verifying how far the international organization and its workers respect their duties and obligations towards persons of international law (Al-Tai, 2019, p. 139).

In the Russian-Ukrainian situation, the question arises whether the United Nations took the necessary and appropriate means to prevent the committing of illegal acts, or whether the organization took measures to punish those who committed them. Would the United Nations, through its main organs, especially the Security Council, be able to end that war and punish the aggressor? Indeed, this calls for

granting more powers to the United Nations bodies to hold the aggressor responsible, be he a person of international law from countries and international organizations or one of their representatives, employees, and bodies.

The second element is the issuance of the illegal act by the international organization (attribution): For the international responsibility of the international organization to materialize, it is required that the behavior or act carried out by the organization be illegal. The perpetrator of this act must be the international organization proper through one of its organs or representatives, which is known as attribution, since the international organization, with its international legal personality, and to exercise what it was established for, needs natural persons or officials to represent it in all the actions it concludes or performs. Therefore, the organization is the one who bears the consequences of its representatives exercising their tasks, functions and actions in the name of the organization, so the organization is legally responsible for any negligence, error or remissiveness on the part of its representatives, and the concept of attribution is based on two parts:

The first: The international organization gets responsible for the actions of persons who are officially considered part of it or work under its control.

The second: It protects it from facing claims for the actions of persons who are not affiliated with the international organization (Al-Tai, 2019, p. 140).

The draft articles on the responsibility of IO prepared by the ILC state that the behavior that can be assigned to the international organization is the behavior that is attributed to the organs of the IO, or one of its agents, which they perform while performing their functions in the name and responsible of the international organization in which they work. This is according to the tasks and competencies entrusted to them by the organization following the charter of the organization and its functions, regardless of the position of the organ or employee (A/66/10, 2011, Article: 6).

Worker's behavior is attributed to the organization as long as this behavior was done in the name of the organization and under its supervision (A/66/10, 2011, article 6), but the texts of the articles did not suffice with committing the violation during the employee's performance of his or her work in the name and for the responsible of the international organization. It dealt with the case of the employee exceeding the limits of his or her powers and authorities, as the texts considered the behavior that was done by the employee exceeding the limits of his powers or in violation of the instructions attributed to the international organization, too (A/66/10, 2011, article 8), as long as the organization recognizes the behavior of its employees and considers it as emanating from it (A/66/10, 2011, Article 9).

The third element is damage: The basic condition for achieving international responsibility, whether traditional or objective, is the realization of the damage, and whether the basis of this damage is error or based on damage (Al-Daqqaq, 2019, p. 479). The damage is the main focus for the realization of responsibility; it is the loss other international persons or individuals suffer as a result of the behavior of the international organization attributed to one of its employees, whether this harm is material or moral (Al-Ta'i, 2019, p. 140).

This meaning was confirmed by the draft texts of the IR of international organizations prepared by the ILC, where they emphasized that the international organization is responsible for reparation, which is any loss, material or moral, caused by the illegal behavior of the organization (A/66/10, 2011, Article 31).

Damage is defined as any loss, whether material or moral, that arises from internationally wrongful acts." As per the European Court of Justice ruling in the case of Walz v. Clickair, Article 31 addresses the responsibility of states for internationally wrongful acts, stating that "the loss encompasses any damage, whether material or moral, arising from the internationally wrongful act committed by the state." (A/CN.4/SER.A/2001/Add.1 (Part 2.p.34).

Topic two: International responsibility of international organizations denied:

In some cases, the illegal behavior or harmful behavior against the IO is proven, but the responsibility of the organization is denied due to the availability of one of the elements that constitute an obstacle to questioning that organization. On the occasion of the two draft articles prepared by it on the IR of states and international organizations for the internationally wrongful act, the ILC referred to a set of circumstances that exclude illegality and then exclude legal responsibility of the international law person (Youssef, 2018, p. 466). Impediments to the responsibility of the international organization are discussed hereunder and divided into voluntary and involuntary reasons according to the following:

Section One: Voluntary reasons: Acceptance or consent: The IR of the international organization is excluded if the victim agrees to what the organization has done (Desouky, 2013, p. 154), and it causes him harm. It is stipulated that consent be based on evidence that is not tainted by error, fraud, coercion, or corruption of the will of the representative of the state or IO that was harmed (Youssef, 2018, p. 468). Approval is required to be issued by the harmed person of international law, as the individual's waiver of diplomatic protection or functional protection is not considered, but his approval produces its effects despite that if he is allowed to litigate directly before international courts. In this case, he can agree to exempt the international person from international responsibility.

It is not possible to accept this, by the harmed party, if the behavior of the international organization is inconsistent with the peremptory rules of international law that cannot be violated, even voluntarily. The behavior of the organization here is absolutely null and void, and can never be amended even with the consent or content of the party harmed. Consent may be explicit or implicit, and acceptance or consent that counts is the consent before the occurrence of the harm as a result of the unlawful act, since consent after the occurrence of the harm is considered a waiver of the right to seek compensation and is not valid (Abuwalfa, 2016, p. 488).

In general, it can be said that consent, which exempts from fulfilling an obligation in a specific case, based on content, is:

A. The approval before or accompanying the illegal act

B. The approval expressly or tacitly issued by a sound and not defective will (A/66/10, 2011, Article 46).

The draft of responsibility of IO prepared by the ILC, Article (20), affirms that the correct acceptance of the state or the international organization negates the illegality of the act that harmed it (A/66/10, 2011, Article 20).

2. Self-defense: The Charter of the UN, Article 51, stipulates the natural right of individual states or groups to defend themselves in the event of an attack by an armed force (Desouki, 2013, p. 159). Legitimate defense turns an illegal act into a legitimate act. The international organization has always done it in the context of defending itself and its employees, but the legitimate defense is not absolute, it is limited by the necessity of proportionality between the act of aggression and the act of aggression (Youssef, 2018, p. 470).

The International Law Commission has placed a restriction on international organizations for their use of the right of legitimate defense (A/66/10, 2011, Article 21), which also restricts states, namely, the prohibition of the use of excessive force, and the full use of restraint when carrying out actions that constitute a defense legally. The international organization must comply with the conditions of proportionality and necessity, which are the conditions that must be applied in armed conflicts (Al-Ta'i, 2019, p. 143).

Countermeasures: Countermeasures are actions IO does in the face of the aggressor, the perpetrator of the illegal act; a state or an international organization, to repel any attack that threatens to cause harm to the organization. The countermeasure can be described as a reaction by the international organization that was harmed by the act. The draft texts of the international responsibility of international organizations have clarified the countermeasures as one of the prohibitions of international

responsibility, as Article 22 stipulates the absence of illegality from the act of the IO if this act constituted countermeasures. This international organization is in the face of the one who caused the harm in a way that does not contradict the rules of international law (A/66/10, 2011, Article 22).
The texts of the articles set controls for countermeasures; Article 51, stipulates for countermeasures:
A. being limited to the extent that the organization committing the wrongful conduct will be forced to comply with its legal obligations
B. being limited to the period in which the wrongful conduct was committed only in response to the conduct of the responsible organization or country
C. being taken to the extent that allows completing cooperation between the organization taking the measures and the responsible country or organization
D. not impeding the organization responsible for the completion of its course and the performance of the tasks entrusted to it (A/66/10, 2011, Article 51).

Section Two: Involuntary causes: Force majeure: Force majeure, in which the person responsible for the damage is not involved, is considered an impediment to IR. It negates the legality of the act that constitutes a violation of one of the provisions of international law that constitutes an obligation on an IO. Force majeure is considered a barrier to the IR of the organization as it is defined as a sudden, unusual event that causes harm beyond the control of the international organization.
IR of international organizations, set by the ILC, considers force majeure as an impediment to responsibility, as Article 23 states that force majeure is a reason to prevent responsibility for an international organization: 1- The illegality of an act precludes an international organization that is not in conformity with an international obligation on that organization if this act is due to a force majeure, i.e. a force that cannot be resisted, or a sudden event outside the will of that organization, which makes the fulfillment of that obligation, materially impossible, under the circumstances (A/66/10, 2011, article23.1). Article 23 of the provisions of the articles denies that a state of force majeure is achieved if the damage is attributable to the conduct of the international organization alone or in combination with other factors, or if the IO bears the responsibility for the emergence of that force majeure (A/66/10, 2011, article 23.2).
The state of distress: The state of distress means the presence of a state body in a dangerous situation that does not allow it to save itself or the other persons entrusted with its protection except by taking an action that violates the international obligations of the state (Arafat, 2017, p. 274).
For the act to be unlawful, it is required that what was done was the only reasonable way to save the lives of people under the responsibility of the international organization (Al-Muhairat, 2016, p. 131).
Article (24) of the draft texts of the IR articles of the international organization stipulates the state of distress as one of the obstacles to the IR of the organization. The state of distress negates the illegal act character, which is the state achieved if the perpetrator of the illegal act does not have any other way to protect the persons entrusted with his protection (A/66/10, 2011, Article 24.1).
ILC added a comment to the article as an example of a situation of distress, clarifying that the entry of planes and ships into the lands or waters of a country under pressure is the most common case when there are cases of bad weather or as a result of a mechanical or navigational failure (Al-Tai, 2019, p. 145).
Article (24) of the draft texts of the articles gives the exception of the application of the state of distress as a barrier to responsibility, as it stipulates that the state of distress is not available and therefore the international organization is not exempted from responsibility if the international organization is the one who caused the state of distress, as well as in the case of action taken in the case of distress not changing anything, and the damage would be achieved anyway (A/66/10, 2011, Article 24.2).
3. The state of necessity: The state of necessity is defined as a set of circumstances the state face when it implements an obligation. Implementation of this obligation becomes difficult or extremely difficult,

and therefore it is necessary for the state to temporarily disengage from this obligation to protect its higher national interests (Arafat, 2017). The texts on the responsibility of IO deal with the state of necessity as one of the obstacles to the international responsibility of organizations, as Article (25) mentions the cases in which the international organization may be based on the state of necessity to deny the illegality of the act in the following cases:

A. If the behavior of the international organization is the only way to avert a danger that threatens the basic interest of the member states of the organization or the international community as a whole, as long as the issue falls within the functions and tasks of the organization.

B. If the behavior taken in the event of necessity does not seriously detract from the basic interest of the countries or the state to which the obligation was based, or the interest of the international community as a whole (A/66/10,2011, article 25.1).

If articles stipulate the conditions for adherence to the state of necessity to evade IR, the same Article (25) deals with cases in which the organization may not invoke a state of necessity for exemption from responsibility, and these cases are:

A. If the obligation of the IO did not allow it to adhere to the state of necessity to avert responsibility.

B. If the IO contributes by its conduct to the occurrence of a state of necessity (A/66/10, 2011, Article 25.2).

Upon completion of the study of the impediments to IR, the texts of the articles of responsibility of international organizations affirm that if the circumstance preventing responsibility ends, the original obligation of the IO remains binding on it and it must fulfill it; it must even compensate for any loss incurred as a result of its failure to fulfill its international obligation as a result of an impediment to responsibility (A/66/10, 2011, Article 27).

Subject two: The legal ramifications of the international responsibility of the international organization

Preface and division: If the IR against the international organization is proven, it will result in a set of effects according to the following division:

Topic one: Ceasing the illegal act

Topic two: In-kind restitution

Topic three: Compensation

Topic four: Appeasement

Topic one: Ceasing the illegal act

The draft texts of international responsibility of international organizations; Article (28), deal with the legal consequences of the internationally wrongful act committed and attributed to the international organization. Its perpetration of the wrongful act entails its responsibility and does not relieve it from the rest of its obligations, as the international organization realizes its responsibility and remains committed to implementing its obligations in good faith without breach or omission (A/66/10, 2011, Article 29).

As for the cessation of the illegal act, it was dealt with in the provisions of the articles of international responsibility, where Article (30) confirms that an obligation is generated on the state committing the illegal behavior and the duty to stop the illegal behavior if this behavior continues, and not to be repeated in the future. They have an obligation to ensure that this behavior is not to be repeated in the future (A/66/10, 2011, Article 30).

It is self-evident, according to the provisions of that article that stopping an unlawful act requires that this act be continuous (Desouki, 2013, p. 129). Therefore, this suspension is made according to the provisional measures presented to them, and the jurisdiction to issue these temporary measures falls within the jurisdiction of the International Court of Justice in the disputes before it. This is expressly stated in Article (41/1) of the Court's statute: The court may decide the provisional measures that must

be taken to preserve the right of each of the parties, whenever it considers that the circumstances so require" (ICJ. Article 41).

The applications of this text have been repeated by the International Court of Justice regarding temporary measures and the cessation of illegal behavior until the judicial cases before it are decided. The Court's implementation of its right to take those measures is when the opportunity arises for the International Court of Justice to apply and study the text of Article (41/1) of its statute; the Anglo-Iranian Oil Company case of 1951. The Court responded to Britain's request for its right to request provisional measures to freeze the oil dispute by order issued by the Court on July 5, 1951 (S.Oda.1996.p548).

Decisions taken to stop the illegal act include UN Security Council Resolutions No. 660 (5) and 661 of 1990 regarding Iraq's occupation of Kuwait and taking temporary measures to ensure that Iraq desist from the illegal act it carried out in occupying Kuwaiti on August 2, 1990 (6).

Similarly, the International Court of Justice (7) ruled on March 16, 2022 that Russia should immediately suspend military actions. Unfortunately, the court's decision was not complied with by the Russian state.

Arguably, stopping the wrongful act is not considered an effect of international responsibility proper, because it is usually not sufficient to repair the damage caused by the wrongful act. It is accompanied by other requests to reach full reparation for the damage, by restoring the situation to what it was be prior to the occurrence of the wrongful act (reparation in kind if that is possible), or financial compensation where the losses incurred by the state or a person of international law are evaluated, and the international organization demands the perpetrator of the wrongful act to pay it, satisfy or provide guarantees not to recommitting such illegal acts.

The existence of an obligation to provide assurances and guarantees of non-repetition will depend on the circumstances of the wrongful act. The violation does not need to be continuous for this obligation to arise, especially if the violation constitutes a pattern in the conduct of the responsible international organization (A/66/10, 2011, p158).

Topic two: In-kind restitution

Restitution in kind or restoring the situation to what it was before is considered one of the legal effects resulting from the realization of the international responsibility of the international organization. The organization that committed the harmful act shall return the things, money, or legal or factual positions to what it was before the occurrence of the illegal act. Restoring the situation to the way it was is obligatory, unless that is impossible, or there are great difficulties involved in returning the situation to what it was before.

International responsibility of international organizations texts deal with the in-kind response in article 35, which approved the response or restoring the situation to the way it was before the act was committed as one of the effects of international responsibility, but controls were established for the process of resorting (A/66/10, 2011, Article 35):

A. It is not financially impossible to restore the situation to the way it was.

B. Restoring the situation to what it was is not cumbersome in a way that is not commensurate with it.

C. If there is a disproportion between the return in kind and the benefit derived from it, compensation is resorted to as an alternative.

Notably, there is congruence between the concept of restitution, its forms, and the related conditions for international organizations contained in Article (35) with the texts relating to the responsibility of states for internationally wrongful acts. (A/CN.4/SER.A/2001/Add.1 (Part 2), p. 35) about the reply stipulated in the same article (35) and the same wording. The only difference is to replace the word "states" with the expression "international organizations."

Topic three: Compensation

The international organization must repair in kind, but on the condition that there is no impossibility of this. So, what is the case if the in-kind restitution is impossible or burdensome?

The solution is to resort to monetary compensation for the damage caused by the illegal behavior of the international organization, and financial compensation is the most common form of repairing the damage. It can even be parallel to restoring the situation to what it was (in-kind restitution) if the in-kind restitution is not sufficient to redress damages resulting from the behavior of the international organization (Arafat, 2017, p. 257). When determining the amount of compensation, it is stipulated that it be sufficient to redress the damages only, so that it is not less than the damages and does not exceed them. It constitutes no unreasonable enrichment for the injured party. In principle, the amount of compensation is determined by agreement between the international organization and the injured party, and in the event of disagreement on the value of compensation, the international judge or arbitrator who looks into the subject matter of the dispute shall take over.

The international judge or arbitrator has wide powers in determining the value of compensation, as there are no specific rules for estimating the value of compensation. Assessment of its value is left according to the different nature of the damage and the size of the damages. The only criterion for estimating the value of compensation is its being equivalent to the amount of damages resulting from the wrongful act committed by the IO averting damage but not causing injustice to the IO. Exaggerated compensation, if accepted by the international organization, maybe a combination of compensation and appeasement for the injured (Runciman, 2015, P41-46).

The texts of the "Responsibility of IO" dealt with compensation as one of the means of reparation, as it was stated in Article (36) that the international organization is obligated to compensate for the damages resulting from the unlawful act attributed to it, if the in-kind restitution is not possible. An estimate of the value of this compensation is required to cover all damages, whether current or future, as long as it is possible to estimate the lost profit as a result of the organization's committing the harmful act. (A/66/10, 2011, Article 36).

Compensation is the most widely used form of reparation by IO. The best-known example of this practice relates to the settlement of claims arising from the United Nations Operation in Congo. The compensation was granted to the nationals of Belgium, Switzerland, Greece, Luxembourg, and Italy through an exchange of letters between the Secretary-General and the permanent missions of the countries concerned, in accordance with the United Nations Declaration contained in these letters, on which the United Nations evaded responsibility when the United Nations declared: fact of causing undue harm to innocent parties" (ICJ Reports 1999, pp. 88-89).

Topic four: Appeasement

Compared to other means of reparation, it is considered the least and simplest form. Therefore, it is always associated with moral damage caused to a person of international law. It is one of the effects of IR, according to which the moral damage inflicted on a person of international law is repaired, and it can be multiple; a diplomatic apology submitted by the international organization to the injured person, or not adopting the behavior issued by a representative of the IO or one of its organs (such as statements offensive to a country). This removes the moral damage suffered by one of the persons of the law not preventing the request for monetary compensation if the injured party so requests. Appeasement is considered a tool for maintaining friendly relations among persons of international law and establishing the principle of mutual respect in international relations (Sharif, 2021, p. 112).

The draft texts of the articles on the responsibility of international organizations have approved appeasement as one of the means of reparation for harm. It is stated in Article 37 that the international organization must satisfy in cases in which this damage cannot be repaired by restitution or compensation, and this can take the form of recognition of violating, expressing regret, or presenting a

formal apology, provided that this is not used as a tool to humiliate the international organization or one of its organs and representatives (A/66/10, 2011, Article 37).

In one example of a formal apology from international organizations as a matter of appeasement, the Secretary-General of the UN made an official apology on December 16, 1999, when he received the report of the independent investigation process into the work of the United Nations during the 1994 genocide in Rwanda, where he said: "We bitterly regret that we did not do our best to prevent it. There was a United Nations force in the country at the time, but it was neither mandated nor equipped for the kind of use of force that was necessary to prevent or stop genocide. On behalf of the UN, I acknowledge this shortcoming and express my deepest regret (Yearbook 2011, p. 167).

Results

1. There is no dispute over the recognition of the legal personality of international organizations, be it expressly stipulated in the charter establishing them or not, as the legal personality of international organizations is discovered and deduced from the goals and functions for which the organization was established. An international legal personality is required to achieve those objectives and functions.
2. Recognition of the legal personality of the IO entails its eligibility to acquire rights and bear obligations. Therefore, international responsibility is achieved in confronting it as long as the illegal behavior of the international organization is attributed to one of its organs or employees.
3. The illegal behavior of the IO may be represented in carrying out an act in violation of its international obligations, refraining from an action required by its founding charter, or preventing the achievement of its objectives for which it was established.
4. The draft texts of the articles on the international responsibility of international organizations are similar in many texts to the draft of the responsibility of states. This is because states and international organizations enjoy international legal personality, and many similar international rights and obligations, except for what distinguishes states from organizations such as the rights of sovereignty and nationality, restricted to states, not organizations. As for organizations, their international legal personality is restricted within the limits that allow them to perform their functions only.
5. The texts of the articles of responsibility of international organizations fall short of defining a clear path to attributing the behavior of the international organization to it, and there is an overlap between the behavior of states and organizations. In the current cause of the Russian-Ukrainian war, there is overlapping between the behavior of the Russian state; in aggression, with the behavior of the United Nations; in taking measures to stop this aggression, which leads to attributing the illegal behavior to both.
6. The Security Council was unable to decide to resolve the Russian-Ukrainian conflict and force the Russian state to stop its aggression as a result of Russia's use of its veto. The Russian state did not even pay attention to the decision of the International Court of Justice to stop its aggression, and this is a defect in the tools of the international organization (United Nations) for achieving its main objective of maintaining international peace and security.

Conclusions

Regarding the Russian-Ukrainian war, the United Nations should have played to end it with all the powers and authorities conferred upon it by the Charter of the United Nations for confronting the warring countries. Likewise, the United Nations organs, led by the International Court of Justice, are unable to issue decisions that end troubles faced by the Ukrainian people. Therefore, it is appropriate to study the international responsibility of international organizations for their actions. The topic was divided into two sections: In the first the nature of the international responsibility of international

organizations is discussed. The international organization's act under responsibility must be illegal and in violation of its international obligations. This act must be attributed to the international organization through the presence of one of its representatives or organs harming other persons of international law. Cases are presented in which the responsibility of the international organization is inapplicable as a result of an impediment to international responsibility, which does not differ from the impediments of international responsibility for states. Those impediments can be attributed to voluntary or involuntary causes.

The second topic handles the legal effects of realizing international responsibility of international organizations, which differ according to the circumstances. It must begin with the necessity of refraining from the illegal act, then the in-kind restitution if possible. If it is impossible to restore in kind, the international organization must pay compensation equal and proportional to the damage caused to a person of international law as a result of his illegal behavior. International texts prepared by the International Law Commission of the United Nations, 63rd session for the year 2011, are a serious step to establish the international responsibility of international organizations.

Recommendations:

1. The necessity of activating the draft texts of the responsibility of international organizations by stipulating them in an international agreement signed by the member states of the United Nations to be more obligatory and clearer to determine the responsibility of international organizations, whatever their functions and whatever the scope of their work.
2. The necessity of establishing a permanent international court with jurisdiction to consider cases of international responsibility of international organizations, whether the international organization is a plaintiff or defendant, and whether the behavior of the international organization in question is its violation of one of its international obligations against persons of international law, or negligence in the performance of the functions for which it was established. This court is to consider complaints submitted by states to force the international organization to issue decisions to stop violations based on decisions issued by this court.
3. The necessity of reconsidering the Charter of the United Nations, especially with regard to the powers and authorities of the Security Council, by setting controls for the use of the veto, especially if the matter is related to situations of war and armed conflict, so that the Council can perform its role entrusted to it to maintain international peace and security, otherwise the United Nations will be held responsible if the Council fails to perform its role despite being granted the necessary powers.
4. The need to reconsider the Charter of the United Nations with regard to the right of the veto to restrict its use by one of the five countries as long as it is a party to any dispute before the Council, and it is allowed to file a complaint against the United Nations from the injured country that the United Nations was unable to take decisions regarding violations against it.
5. Establishing an organ of the United Nations, the objective of which is to establish effective mechanisms for implementing United Nations resolutions, represented by the Security Council, or the judgments of the International Court of Justice by the joint force of the member states of the United Nations.
6. Proposing an international agreement and opening the door to negotiations on mechanisms to achieve the international responsibility of international organizations by holding an international conference attended by countries and international organizations, during which the draft texts of responsibility of international organizations are discussed, and consultations and discussions take place on the proposals of countries and international organizations in this regard.

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