

Problems of correlation of the principles of non-interference in domestic affairs of states and respect of human rights

Abstract: Till nowadays real correlations between the principles of non-interference in domestic affairs of states and respect of human rights and allowing equal their usage, has not created.

In our point of view, the problem is concluded in ambiguous interpretation of the concept of state sovereignty, determination of domestic competence of state, which the parties interpret in different ways, often for justification of its home and foreign policy including a violation of fundamental rights and freedoms of man, and other – for solution its geopolitical objectives. Wherein there are used double standards, which emasculate rational kernel from assertion of opponents.

Keywords: principle; non-interference; human rights; correlation; the UN Charter; international law.

Appearance and development of the principles of non-interference in domestic affairs of states and respect of human rights as initial provisions of international law have different history however we may assert that an appearance and fixation of the second was a result of imperfection of the first.

It seems that as it would be paradox sounded, the principle of respect of human rights received its development like a profound and very universal proviso - exception to assertions of the principle non-interference in internal affairs of the states, emasculating its gist and initial destiny. In our point of view, the same

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picture is observed with development of a concept of responsibility on protection, forming in the norm of international law.

Other matter is on rightness and reasonableness similar correlations, about which it would especially be spoken.

Before 20th of 20 century the principle of non-interference had formed in frames of bilateral treaties about arbitration, to which might be related the decisions of Lyubech Congress of 1097, Agreement of the Russian princes about peace of 1389, Treaty of Nystad of 1721, Treaty of Kuchuk Kaynardzha of 1774 and others [7, p. 131].

But, despite developing practice, until 20th of 20 century an approach to the principle of non-interference was ambiguous. So, for instance, the French philosopher F.-R. Chateaubriand believed that there was no existed the common principles of non-interference. German philosopher and statesman K. Kamptz considered lawful interference in any area of state life [5, p. 115-116]. At the same time, the Russian jurist L. Kamarovsky and number of other authors recognized independence of the states a priori and supported an existence of the non-interference concept as legal principle. Wherein, they distinguished reasons for lawful interference, a list of which was quite wider. So, for instance, lawful is recognized the interferences upon presence special treaty between states, which give one of them the special rights for state structure of the second one, for adoption of hygienic measures against epidemics, for protection of coreligionists etc. [5, p. 74-75].

The next stage of the development of the non-interference principle was addressing of the US President J. Monroe to the Congress of 2 December 1823 that is known like Monroe Doctrine. The addressing contained all to the European states not to interfere in matters of American countries in return of the same obligations of the United States [1, p. 309].

Further development of the principle of non-interference in internal affairs of the states assisted the doctrine of Calvo-Drago, which forbade armed interference in matters of the states for recovery of international debts. Provisions of this

doctrine were stipulated in Hague Convention on limitation of force usage upon recovery on treaty obligations [9, p. 232-233].

Significant contribution to formation of the principle of non-interference made the Russian Decree no. 1 “On Peace” of 8 November 1917, the Treaty of Versailles of 1919 that established the League of Nations, the Kellogg-Briand Pact of 1928, Latino-American Convention of Rights and Duties of States of 1933, Declaration of American Principles of 1938 and others [10, p. 422].

With adoption of the Charter of the United Nations the principle of non-interference in internal affairs of states became one of the main principles of international law. It was interpreted in details in Declaration on Principles of International Law concerning friendship relations and cooperation between states in compliance with the UN Charter of 24 October 1970, Declaration on the Inadmissibility of Intervention in the Domestic Affairs of State and the Protection of Their Independence and Sovereignty of 20 December 1965, Final Act of the Meeting on Security and Co-operation in Europe of 1 August 1975, Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States of 9 December 1981 and a number of others. These documents confirm states’ commitment to the principle of non-interference and specify its content, area of action, objects and subjects. The principle of non-interference contains a ban to intervene in any forms in domestic affairs of states and people. Neither one state nor group of states has the right “to interfere directly or indirectly on any reasons in domestic and foreign affairs of other state. Due to this, armed intervention and all other forms of interference or any threatens that directed against international personality of state or against its political, economic and cultural basics are violation of international law” [3, p. 69].

In addition with the principle of non-interference, the UN Charter, first time in international law, fixed the principle of respect of human rights that significantly impacted on palette of international relations.

Until 1939 there were concluded only separate agreements between states, which in some extent had regulated some matters relating to human rights, e.g.

treaties containing the provisions on protection religious, language and national minorities, and also human rights in period of armed conflicts, agreements directed to combat to slavery and slave trade, prevention trade with women and children etc., but there were no the treaties concerning subjective co-operation of states in area of human rights.

So, the Preliminary suggestions concerning establishing of universal international organization on supporting of international peace and security, which were adopted in conference in Dumbarton-Oaks in September 1944, did not contain indications on encourage and development of respect to human rights and fundamental freedoms as one of the main aims of established United Nations. There was no mention about human rights as one of the principles in these suggestions, in compliance with which it should act. Para 3 of the chapter 1 of the Preliminary suggestions, which were the basis for adoption of the UN Charter in Conference of 1945 in San-Francisco, as a goal of the UN indicated “carrying out of international cooperation in resolution of international problems of economic, social, cultural and other humanitarian problems...” [6, p. 43] and only the Conference on behalf of the fourth great powers (USSR, USA, Great Britain and China) was offered an amendment to p. 3 of Article 1 of the Charter, according to which the UN had to “carry out international cooperation in resolution of international problems of economic, social, cultural and humanitarian nature and promotion and development of respect to human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion” [6, p. 112].

Stated point in this wording was adopted by the Conference and became an integral part of the UN Charter, which might be explained with the fact that not only great powers but also many other countries of the world were not ready at that time to take obligations on ensuring of human rights and fundamental freedoms. During long years they repeatedly stated that the UN Charter does not impose legal obligations to guarantee respect of human rights and fundamental freedoms without distinction as to race, sex, language and religion [14, p. 149].

It should be noted that provision of the UN Charter on respect of human rights was formulated in Article 1 not as mandatory principle and only as goal, which to be pursued by the UN. But, adoption of the UN Charter did not lead to uniform interpretation of the principle of respect of human rights and the principle of non-interference as a theory of international law so and in practice of international relations the statesmen, diplomats and scientists expressed and continue to express different standpoints concerning a legal significance its provisions in respect of human rights.

Many Western jurists and statesmen thought that time that the UN Charter does not impose instates legal obligations concerning promotion of respect to human rights and their observance, but only forms the goals, which should be achieved [12, p. 105-108; 13, p. 29-32]. US Department of State also asserted that the UN Charter does not provide “legal obligations to guarantee of respect of certain human rights or fundamental freedoms without distinction as to race, sex, language and religion” [14, p. 149]. On the contrary, the jurists of socialistic countries were unanimous that the UN Charter imposes strict legal obligations to respect human rights and forbids them to interfere in domestic affairs each other [8, p. 3-19; 9; 15, p. 283-289].

The Conference in San-Francisco had negatively accepted the proposals to point out in the UN Charter a list of the rights, which had to be subjected universal respect and observance, considering that it was reasonable to move the discussion of this matter for later stage, when would start to function the General Assembly and other bodies of the UN [2, p. 379-390]. Only after adoption of The Universal Declaration of Human Rights of 1948, Pacts on Human Rights of 1966 and other international treaties in considered area of states-members of the UN became to recognize mandatory nature of fundamental rights and freedoms of man.

Development of international law and international relations in the second half of 20th century shows that sphere of action of the principle of human rights' respect is constantly extended. Moreover, it has been filled with new content. The UN and treaty bodies are monitoring a process of observance with states extended

list of mandatory rights and freedoms and are taking targeted measures that provided with international law.

Currently considered principle obliges states not only to respect and observe human rights, but also to take measures for protection them and prevention of criminal breaches [4, p. 12-25].

At the same time, it is necessary to recognize that the real correlations between principles of non-interference in domestic affairs of states and respect of human rights have not been formed until present time.

In our standpoint, the problem is in ambiguous interpretation of a state concept of state sovereignty, determination of domestic competence of state, which parties interpret in different ways, and often in order to justify its internal and foreign policy, including violation of fundamental rights and freedoms of man, and others - for solution its geopolitical tasks. Wherein it is used double standards, which eviscerate the rational grains from assertions of opponents.

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