

REFLECTIONS ON THE MANILA DECLARATION ON THE PEACEFUL SETTLEMENT OF INTERNATIONAL DISPUTES (UNITED NATIONS GENERAL ASSEMBLY RESOLUTION 37/10, 15 NOVEMBER 1982)

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In 1982, the United Nations General Assembly approved without a vote a text prepared by the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. The Special Committee had met in Manila in 1980 to negotiate and draft the text.

This UN resolution, the “Manila Declaration on the Peaceful Settlement of International Disputes,” was born in the midst of a deeply divided world and at a time of superpower tension and confrontation.

The Manila Declaration was an important action by the world body, “for many had come to believe that it was better to strengthen themselves and their capacity for war than to think of strengthening the United Nations,” according to General Carlos P. Romulo in his statement before the General Assembly on the adoption of the Declaration.

Reaffirming and Expounding Charter Principles

The Manila Declaration reaffirmed and expounded on two fundamental principles enshrined in the United Nations Charter.

One, the obligation of all States to settle their international disputes by peaceful means in such a manner that international peace and security are not endangered; and two, that all States shall refrain from the threat or use of force in their international relations against the territorial integrity or political independence of a State, or in any other manner inconsistent with the purposes of the United Nations Charter.

The Manila Declaration was a child of the Cold War, burdened with the parentage of a deeply divided world. Although nations had taken sides, they succeeded in coming together behind the Declaration.

Even though states were often guided not by norms of international law, but by their ideological alliances, they saw a clear need for the Manila Declaration. For the bipolar and divided world was beset with conflict, from territorial disputes to neocolonial proxy wars.

The birth of the Manila Declaration was accompanied by the birth pains of necessity. But the question might be asked, is it a normative text?

A Normative Text

As the Declaration is neither a treaty nor a convention, at least in terms of form, it does not appear to be a normative text as such.

But as a reaffirmation and reiteration of arguably the most important principles of the UN Charter, the Declaration is in fact normative. It “further elaborated” the principles already in the UN Charter, according to

Sir Michael Wood, a member of the UN International Law Commission and the former principal Legal Adviser to the Foreign and Commonwealth Office.

For Emmanuel Roucouas, Professor of International Law at the University of Athens, the Declaration is particularly significant because “for the first time, a normative text develops a comprehensive plan and a consolidation of the legal framework of peaceful settlement of international disputes.”

Relevance in Our Contemporary World

As a normative text, what is its relevance today?

Today we live in what is popularly known as a multi-polar world. The battle for primacy of political ideology is no longer at the center of global affairs. Instead, long repressed social, cultural, religious, historical and territorial differences have given rise to conflicts, while at the same time new threats have emerged.

The Declaration stresses what is sometimes forgotten—that the sovereign states that make up the world community are under a legal obligation to settle disputes in a peaceful manner and in accordance with international law.

This is the most fundamental of legal norms in our world. If this most basic norm did not exist, there would be no substratum or infrastructure on which international law could rest on. The law of nations or nation-states could scarcely be regarded as law in a true or realistic sense, and not just in a rhetorical sense or a flourish in an elocution sense.

For Foreign Affairs Secretary Albert F. Del Rosario, the Manila Declaration “remains relevant and pertinent today, particularly in our region, where challenges to peace and the rule of law remain.”

It is within this context that the Philippines invites the world community to look back and observe the anniversary of this important legal instrument.

Various international legal scholars and academicians and diplomats have already referenced the Manila Declaration in papers and addresses. The Manila Declaration should also be referenced, in deed if not necessarily in word, by nations and their leaders.

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A World of Many Actors

In addressing the question of the relevance of the basic norms reflected in the Manila Declaration in our contemporary world, we should also bear in mind that the actors in the international arena today capable of exercising deadly force are not limited to nations or sovereign states.

Non-state actors exist in today’s world and in fact exercise unilateral armed force against sovereign states or against the peoples of sovereign states. The objectives of the use of force by non-state actors do not necessarily relate to trying to occupy and acquire territory belonging to a third state, or to subjugate the government of an entity defined as a sovereign state. Many times the objectives of non-state actors may simply be the imposition of massive death and destruction on the people of a state and their property, and not the establishment of a rival government or state.

The means and modalities of armed force employed by non-state groups ordinarily include the unilateral use of extraordinary violence or devastation against towns and cities, and widespread slaughter of unarmed peoples. Thus, these modalities have generated terms like “terrorists,” “insurgents,” or “militants.”

In our deeply interdependent world, the violent actions of non-state actors can cause misunderstandings and eventually conflicts between sovereign states. Matters that were traditionally seen as purely internal in character can attract the attention and concern of other states and may lead to mistrust and instability, and ultimately to conflict—sometimes armed conflict.

Clearly then, even in the absence of prior, direct conflict between states, serious events in one state can lead to inter-state tensions, disagreements, and conflicts.

It is under these circumstances that the Manila Declaration also remains relevant today.

Settlement Through International Tribunals

Of the eight means of peaceful settlement of disputes outlined in Part I, paragraph 5, of the Manila Declaration, judicial settlement is perhaps the most formal means. It concerns disputes that are not essentially political in nature, or those capable of settlement by or through the political organs of the United Nations.

International disputes may well be regarded as essentially legal and not merely political when they are or should be resolvable under Article 38 of the Statute of the International Court of Justice.

That is to say, capable of settlement through the application of international law derived from its traditional sources, that is, treaties, international custom, general principles of law, and—as subsidiary sources—judicial decisions and the teachings of the most highly qualified publicists.

We might recall that beginning with the Corfu Channel case in 1947 until the adoption in 1982 of the Manila Declaration—a span of thirty-five years—the Court had disposed of 49 contentious cases.

Since 1982, however, the case load of the Court has actually increased, so that the Court disposed of 75 contentious cases in a comparably shorter period. This apparently increasing confidence in the capabilities and impartiality of the Court—particularly among developing countries—is not unrelated to the norms, the values and aspirations articulated in the Manila Declaration.

After all, the Manila Declaration reflects the international community's increasing reliance on the rule of law as a cornerstone not only for the peaceful settlement of disputes, but also for the maintenance of international peace and security.

Despite the establishment of specialized standing dispute settlement mechanisms like the International Tribunal of the Law of the Sea and the Appellate Body of the World Trade Organization—which not a few believe may have the effect of causing some contraction in the Court's jurisdiction—the special status of the International Court of Justice as the highest body for settlement of major international disputes by the application not of force or coercion but by the application of legal norms remains.

The Manila Declaration's exhortation upon parties to consider the possibility of choosing, in the free exercise of their sovereignty, to recognize as compulsory the jurisdiction of the Court in accordance with Article 36 of its Statute, should be reconsidered as a guiding principle in the peaceful settlement of disputes to further strengthen the position and the capability of the Court.

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The Rule of Law

We might also recall that in 1946, after suffering the horrors of a devastating war, the world made a collective decision to establish a new international regime, marked by the firm commitment and obligation to respect the sovereign independence of all states, to refrain from the use of force, and to settle all disputes amicably and not through the exercise of coercion.

This collective will and aspiration was embodied, and remains embedded, in the constitutional document we know as the UN Charter, and the legal obligation of working to achieve a peaceful settlement of disputes was reinforced by the adoption 30 years ago of the Manila Declaration.

At the apex of this principle of peaceful settlement of international disputes is resort to the highest judicial body of the United Nations: the International Court of Justice.

The rule of law and our commitment to the peaceful settlement of disputes, particularly as carried out through the application of juridical norms by judicial bodies, should remain the guiding principles on which we can build sturdy bridges of peace, and lasting and firm foundations of understanding.

The Philippines takes particular pride in having hosted the session of the Special Committee which led to the elaboration of the Manila Declaration. But the true legacy of the Declaration is that states and their representatives, in spite of differences and diverse points of view, were able to come together and renew their commitment to peace. 🌸

The official text of the Manila Declaration is on the website of the United Nations at www.un.org/documents/ga/res/37/a37r010.htm.

For a history and description of the Manila Declaration, please see "The Manila Declaration on the Peaceful Settlement of International Disputes," by Emmanuel Roucouas, Professor of International Law at the University of Athens, also on the United Nations website at <http://legal.un.org/avl/ha/mdpsid/mdpsid.html>.

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