

THE NEED AND WAYS TO UPDATE THE MODERN INTERNATIONAL ORDER

Nurlan Nurseit

Professor of the Faculty of Economics and
Entrepreneurship, Doctor of Economics
(Kazakh-German University, Almaty), e-mail: nurseit@
dku.kz

<https://doi.org/10.52536/2415-8216.2024-1.06>

Abstract. The purpose of this study is to consider the problems of the modern international order that impede its effective functioning. The article focuses on a critical assessment of the modern international order, the consequences of its failures and ways to eliminate them. The modern international order is a well-designed decentralized system of multilateral governance that generally reinforces the norms of equality and non-discrimination. But in practice, this mechanism often fails. The reasons for its failures are the lack of effective mechanisms for neutralizing wars, the absence of uniform rules, the outdated structure of the UN Security Council, and the unequal right of veto among its members. This is evidenced by the ongoing local military conflicts in the world. The article substantiates the need and suggests ways to update the international order that ensures sustainable peace and security for all countries of the world. In addition, issues of calculating reparations for damage caused by the annexation and occupation of the territory of another country are considered.

Keywords: *international order; conflicts, reparations, UN Security Council.*

ҚАЗІРГІ ХАЛЫҚАРАЛЫҚ ТӘРТІПТІ ЖАҢАРТУ ҚАЖЕТТІЛІГІ МЕН ЖОЛДАРЫ

Нұрлан Нұрсейіт

Қазақстан-неміс университетінің экономика және кәсіпкерлік факультетінің профессоры, экономика ғылымдарының докторы, e-mail: nurseit@dku.kz

Аңдатпа. Бұл зерттеудің мақсаты қазіргі заманғы халықаралық тәртіптің тиімді жұмыс істеуіне кедергі келтіретін мәселелерін қарастыру болып табылады. Мақалада қазіргі заманғы халықаралық тәртіпке сыни баға беру, оның сәтсіздіктерінің салдары мен оларды жою жолдары қарастырылады. Қазіргі заманғы халықаралық тәртіп теңдік пен кемсітушілікке жол бермеу нормаларын тұтастай күшейтетін көпжақты басқарудың жақсы жобаланған орталықсыздандырылған жүйесі болып табылады. Бірақ іс жүзінде бұл механизм жиі сәтсіздікке ұшырайды. Оның сәтсіздікке ұшырау себептері

соғыстарды бейтараптандырудың тиімді тетіктерінің және бірыңғай ережелердің жоқтығы, БҰҰ Қауіпсіздік Кеңесінің ескірген құрылымы, оның мүшелері арасындағы вето құқығының теңсіздігі. Бұған әлемде болып жатқан жергілікті әскери қақтығыстар дәлел. Мақалада әлемнің барлық елдері үшін тұрақты бейбітшілік пен қауіпсіздікті қамтамасыз ететін халықаралық тәртіпті жаңарту қажеттілігі негізделеді және жолдар ұсынылады. Сонымен қатар, басқа елдің аумағын аннексиялау және басып алу салдарынан келтірілген залал үшін репатриацияларды есептеу мәселелері қарастырылады. .

***Түйін сөздер:** халықаралық тәртіп, қақтығыстар, репарациялар, БҰҰ Қауіпсіздік Кеңесі.*

ПОТРЕБНОСТЬ И ПУТИ ОБНОВЛЕНИЯ СОВРЕМЕННОГО МЕЖДУНАРОДНОГО ПОРЯДКА

Нурлан Нурсейт

Профессор факультета экономики и предпринимательства Казахстанско-немецкого университета, доктор экономических наук, e-mail: nurseit@dku.kz

Аннотация. Целью данного исследования является рассмотрение проблем современного международного порядка, препятствующих его эффективному функционированию. В статье основное внимание уделяется критической оценке современного международного порядка, последствиям его провалов и путям их устранения. Современный международный порядок представляет собой хорошо продуманную децентрализованную систему многостороннего управления, которая в целом укрепляет нормы равенства и недискриминации. Но на практике этот механизм часто дает сбой. Причинами его неудач являются отсутствие эффективных механизмов нейтрализации войн, отсутствие единых правил, устаревшая структура Совета Безопасности ООН, неравное право вето среди его членов. Об этом свидетельствуют продолжающиеся локальные военные конфликты в мире. В статье обосновывается необходимость и предлагаются пути обновления международного порядка, обеспечивающего устойчивый мир и безопасность для всех стран мира. Кроме того, рассмотрены вопросы расчета репатриации за ущерб, причиненный аннексией и оккупацией территории другой страны.

***Ключевые слова:** международный порядок, конфликты, репарации, Совет Безопасности ООН.*

Introduction

After the World War II, the United States (US) and its partners built a multifaceted and sprawling international order, organized around economic openness, multilateral institutions, security cooperation and democracy [1]. The prevention of interstate wars and the regulation of the use of force were two founding principles of the liberal international order that took shape after World War II. The main strength of this world order is it's a win-win economic model: growth in one country breeds growth in another [2].

As a result, the number of major conflicts has sharply decreased and their nature has changed. Conflicts now tend to be less deadly and often waged between domestic groups rather than states. The number of combat losses also decreased. According

to UCDP estimates, in 1950 there were 236 deaths per million people, and in 2015 - already 13 deaths [3]. Today, crime kills far more people than armed conflicts [4].

International agreements have also helped to reduce the number of victims. In 1949, all countries signed four Geneva Conventions - agreements that govern the rules of conflict. All of them pledged to protect prisoners of war and the wounded and not to attack civilians who are not participating in the war [5].

However, despite the creation of the United Nations [6] in 1945, in practice, the international system to this day is deprived of a real ability to ensure world security. Small local military conflicts continue to occur. This is facilitated by the development of new technologies and types of weapons, such as cyberattacks, the use of artificial intelligence, robotization and the livestreaming of extremist attacks, and by new ways of conducting military operations, such as the hybridization of war, information and cyber-attacks, and support for insurgents on enemy territory [5]. Today's conflicts are less numerous but deeply rooted [6].

A particularly striking example, when international order does not work properly, is the current situation in Ukraine. This escalation was caused by Russia's direct military invasion of Ukraine on 24 February 2022, despite the fact that Russia, according to the Budapest Memorandum concluded in exchange for Ukraine's renunciation of nuclear weapons, became one of the guarantors of its territorial integrity on 5 December 1994. To be more precise, this conflict began nine years ago, when Russia annexed Crimea in February-March 2014, and in May of the same year established military control over part of Eastern Ukraine, creating the self-proclaimed Lugansk and Donetsk People's Republics (LPR and DPR).

Thus, it becomes obvious that the mechanism of international security is experiencing serious failures. Existing international bodies, such as the UN, have so far shown themselves to be "toothless" organizations that exhort violators, but do not have sufficient capabilities to bring the aggressor to justice and restore the initial status quo.

Therefore, the purpose of this article is to study the shortcomings of the modern international order that impede its effective functioning, as well as to find ways to modernize it to ensure more sustainable peace and security throughout the world.

Liberal internationalism emerged after the Second World War as a vision for the western order [7]. It is a collective security system in which sovereign states act together to uphold a system of security and peace. This vision is reinforced by open trade, national self-determination, and the liberal democracy [1].

Research methods

The work examines the modern world order and defines its distinctive features. Using the method of historical cases made it possible to determine the possibility of restoring the initial status quo violated during the war conflicts. The use of method of structural analysis made it possible to identify the key causes of failures in the world order associated with the institutional problems of the functioning of international organizations, in particular the UN and its Security Council, as well as to determine effective measures to address them.

Research results

Liberal internationalism emerged after the Second World War as a vision for the western order [7]. It is a collective security system in which sovereign states act

together to uphold a system of security and peace. This vision is reinforced by open trade, national self-determination, and the liberal democracy [1].

The contemporary international order

The post-war liberal order was built around a system of multilateral governance. The key feature that distinguishes international from domestic politics is that, in the international sphere, political units are forced to co-exist in the absence of an overarching authority [8].

National governments are remaining the primary source of authority. They conduct relations through multilateral institutions that facilitate cooperation. Such an order allows reinforcing norms of equality and non-discrimination, thereby giving the order more legitimacy. This is the main difference from the system proposed after the First World War, which was built around civilizational, racial and cultural hierarchies [1].

The four components constitute the core elements of the post-war international order: a rules-based free trade system; strong alliances and sufficient military capabilities for effective deterrence; multilateral cooperation/international law to solve truly global problems, such as the non-proliferation of weapons of mass destruction, the spread of democracy [9].

The existing international order includes not only institutions like the IMF, the WTO, the UN, the G-20, formal and informal cooperation between states, and rules like Basel, but also the way major states operate in the global economy, the general principles underlying global economic activity, and the relevant patterns [2], [10].

At this order the US plays a decisive role. In security affairs, the US established an array of security partnerships, beginning with NATO and alliances in East Asia. In the management of the world economy, the Bretton Woods international financial institutions became tied to the American market and dollar. The American domestic system - its market and polity - became 'fused' to the evolving and deepening post-war liberal order [1].

The UN was created as central collective body to manage international order. It consists of two institutions: the UN Security Council and the General Assembly.

The UN Security Council has primary responsibility for the maintenance of international peace and security [11]: plays a leading role in determining whether there is a threat to the peace or an act of aggression; calls on the parties to the dispute to settle it amicably; recommends its methods or conditions; may take coercive measures to maintain or restore peace and security, which range from economic sanctions to international military action. It also establishes UN peacekeeping operations and special political missions. Security Council has fifteen members, of which five are permanent members (China, France, Russia, the UK and the US) and ten members are non-permanent members elected for two-year terms. Each member has one vote. The members of the UN agree to abide by and carry out the decisions of the Security Council. A state which is not its member may participate in deliberations, without the right to vote [12].

The General Assembly plays an important complementary role in promoting peace and security, as it is the main deliberative, policy-making, and representative body of the UN and offers opportunities to reach consensus on difficult issues, providing a forum for diplomatic negotiations and grievances. Peace and security issues are dealt with by the First Committee (Disarmament and International Security Issues) and the Fourth Committee (Special Political and Decolonization Issues) [13].

Evidence of the failures of the contemporary international order

This seemingly well mechanism does not always cope with the expectations placed on it. Sometimes it crashes. Some experts attribute this to the rapid growth in the number and diversity of states with different levels of development, attitudes and traditions at the end of the Cold War and the beginning of globalization, which undermine the sense of security of community [1].

However, the growing divergence does not mean that it will necessarily damage the current world order. This can only be the case if the order itself is imperfect. Other experts believe that the reason for its failure is adverse economic conditions that lead to stagnation in the fortunes of the western working and middle classes [14]. However, any stagnation is also a consequence of the imperfection of the order itself, and not its cause. The failures, in our opinion, are due to the fact that the existing international order has built-in flaws.

The first such flaw is the orientation of the existing world order towards maintaining the status quo of the leading world countries at the time of its creation, that is, at the end of World War II. However, since then the situation in the world has changed a lot. Therefore, the international order today should be served not in the interests of the former leading world powers, but in the interests of the majority of states, since many of their previous military gains, which were associated with the violation of the sovereignty, rights and freedoms of other countries, were left unchanged.

Let's explain this with a simple example. Suppose one person occupied part of another person's house. According to the norms of criminal law used at the national level of each country, this person will be considered a robber, must be detained, rendered harmless, and the part of the housing seized by this person must be returned to the victim with full compensation for the damage caused. However, in the relationship between countries, such a fair solution to the problem in current conditions often does not occur. If one country seized by force a part of the territory of the neighbour country, and holds it in its own interests, then the world community does not always have the opportunity to bring the offending country to justice. This is especially true when it comes to a large country with a large arsenal of modern weapons, including nuclear ones. As a result, the occupying country finds itself unpunished for those norms of international law that it has violated, which encourages the further development of its aggressive behaviour. At the same time, the victim country cannot return the occupied territories and property to its jurisdiction, which undermines the population's faith in the international order.

Unfortunately, this situation can last for a long time, sometimes years and centuries, until the victim country achieves a military opportunity to return the lands and property illegally seized from it. For example, on 5 December 1994, Ukraine gave up its nuclear weapons, which it inherited after the collapse of the USSR, in exchange for economic assistance from Western countries and guarantees of the integrity of its territory. This was spelled out in the Budapest Memorandum. The guarantors of its territorial integrity were Russia, UK, and the US. Later, China and France joined the memorandum (with reservations). However, despite its international obligations to be the guarantor of the territorial integrity of Ukraine, in 2014 Russia grossly violated its obligations by annexing part of its neighbouring territory, namely Crimea (explicitly) and part of the Donbass (implicitly). Since then, for nine years, the world community has not been able to take effective measures to

return the situation to its original status quo. The exception is its verbal admonitions and the adoption of a number of sanctions against certain Russian citizens and firms involved in the annexation. The reason for its indecisive behaviour was that Russia had the second largest army in the world and a significant nuclear arsenal. The reaction only changed in 2022, when Russia launched a military aggression against Ukraine with the aim of annexing its entire territory. In this case, the West not only extended the sanctions against Russian citizens and firms but also began to provide Ukraine with military equipment and assistance. This attempt helped Ukraine not only to survive, but also to launch a counteroffensive.

Consider another example. As a result of World War II, the USSR annexed the entire Sakhalin and the Kurile Archipelago, although Japan did not declare any war on it. As a result, the Japanese still believe for 77 years that these lands are under Russian occupation [15]. The world community has made no attempt to restore the status quo. The reason was that Japan was the losing side in World War II.

One more example, the Kazan Khanate was captured by Russia by military means in 1552. The key purpose of the capture was the expansion of its territory [16]. Even after 470 years, there is no question of return of the territories, and the payment of reparations, since Russia won the war.

The second flaw of the existing international order is that there are no uniform laws binding on all countries that would regulate all aspects of international interaction between countries. In particular, strong countries do not consider themselves obliged to obey the general rules. This is the fundamental difference between international law and national law, where, unlike the latter, even an illegal result is not disputed by anyone. Currently, the ancient Roman principle of “vae victis” continues to operate - according to which the winners can treat the vanquished as they see fit.

Of course, over the past two centuries, some international acts were adopted that regulate various aspects of international security, as the Hague Conventions of 1899 and of 1907, the Geneva Conventions of 1949, the Genocide Convention of 1948 [17], and the Universal Declaration of Human Rights [18]. Many international acts have also been adopted in the field of finance, transport, pollution, etc.

However, despite the adoption of these norms, their acceptance for each country is voluntary and there is no single international legislation binding on all countries. For instance, the George W. Bush administration believed that the US should not be limited by the potential for investigations, inquiry, or prosecution by the International Criminal Court, whose jurisdiction does not extend to Americans and which we do not accept [19]. However, if the most powerful actor is not constrained by the order it has created, how can the order be sustained? [9].

The third drawback is that there is no effective international body with all the necessary powers and effective tools that could stop any aggression and return to the original status quo, punish the occupier and compensate for the harm caused to the victims of the seizure.

In modern international practice, for the illegal annexation of a foreign land of a country, the aggressors, along with the return of the occupied territories, must pay reparations, that is, payments that compensate for the losses to the affected party from the violation of international law. Reparations mean the recognition of the guilt of the aggressor country in the crimes committed, allow compensating for the damage caused by it within a specified period of time, and lay the foundation

for reconciliation between countries after the conflict. Reparations concern not only compensation for damage to countries, but also to specific citizens who have suffered from the crimes of the state, the actions of its armed forces.

The obligation to compensate for damages can arise either on the basis of a peace treaty between the parties, or by decision of international organizations such as the Security Council or the International Court of Justice. The first option (a peace treaty) can be concluded in the event of a military defeat and the capitulation of the aggressor country. The second option (the decision of international organizations) assumes the presence of a positive decision of an authorized international body (such as the Security Council or the International Court of Justice).

However, in modern international law, illegal territorial and other property acquisitions that countries have received in the past as a result of wars can still be considered legal. For example, the annexation of the territories of Kazan Khanate by Moskoviya in 1552, and Texas by the USA in 1845, and etc. just confirm it. These annexations were not disputed in court, as they occurred at a time when there were no international organizations like the UN. However, this does not negate their unfair nature, and, consequently, the possibility of filing a complaint against them in the future.

The annexation of the territory of other countries took place despite the creation of the UN in 1945. These include the annexation of Kashmir by India in 1947, Tibet by the PRC in 1950, Goa by India in 1961, Gaza Strip and the West Bank of the Jordan by Israel since 1967, Nagorno-Karabakh of Azerbaijan by Armenia in 1991-2023, South Ossetia and Abkhazia by Russia in 2008, Crimea, parts of Donetsk and Lugansk regions by Russia c 2014 and other cases.

All this testifies to the weakness of the current international order, which has not been able to resolve these conflicts. The failure of the international order is especially obvious when the territorial annexation was carried out along with the genocide of the people, how it happens today in Ukraine and Gaza Strip.

Unlike international law, in the national law, such a situation is not possible. No matter how much time has passed, the illegal seizure and appropriation of someone else's property is considered a crime and the guilty party must not only return this property, but also pay compensation for the damage caused, as well as incur criminal penalties.

At present, the following instruments are used to force the aggressor country to pay reparations: agreement, coercion and confiscation.

The first tool is usually used in the event of a military defeat of the aggressor country, its complete surrender, when it agrees to any conditions that return the status quo. If the aggressor country did not suffer defeat, but only returned to its former borders, that tool is difficult to apply, since the aggressor country will not want to take on the cost of reparations in favour of the injured party without external coercion.

The second tool is coercion, when the international community of the aggressor country to pay reparations by decision of the UN Compensation Court or the International Court of Justice (ICJ). For example, by decision of the Compensation Court, Iraq was forced to make reparations in favour of Kuwait after the Iraqi invasion and occupation of the country. However, if the aggressor country is a permanent member of the UN Security Council, then this tool does not work, as such a member will try to block the decision of the UN Compensation Court.

“When the U.S. allowed the ICJ to rule on its war against Nicaragua in 1986, the court ruled that deployment of the “Contras” to invade and attack Nicaragua and the mining of Nicaragua’s ports were acts of aggression in violation of international law, and ordered the U.S. to pay war reparations to Nicaragua. When the U.S. declared it would no longer recognize the jurisdiction of the ICJ and failed to pay up, Nicaragua asked the U.N. Security Council to enforce the reparations. The U.S. vetoed the resolution” [20, p. 1].

The ICJ has the right to consider cases only if both parties to the conflict agree to this. Its powers are limited to prosecuting individuals on charges of genocide, crimes against humanity and war crimes. To consider claims related to country aggression, it needs a UN Security Council resolution, and obtaining it is also problematic if the aggressor country is a permanent member of the UN Security Council and has the right to veto its decisions.

And the third tool is the confiscation of the property of the aggressor's country to compensate for the losses of the injured party. Changes in national legislation should make it possible to confiscate such assets. Such a mechanism was set out in the 2005 UN General Assembly resolution on reparations, which was adopted precisely for the case when the aggressor country refuses to compensate for the damage or denies it [21]. Canada was the first to pass such a law in the summer of 2022. Theoretically, in the event of a war in Ukraine, the immunity of Russia’s sovereign assets can be overcome if Russia is prosecuted as an aggressor state by a UN decision. Such a decision also requires the consent of all members of the UN Security Council, which, given the current political position of Russia and China, is now impossible [22].

Thus, the modern architecture of the settlement of international conflicts does not allow a country that is a permanent member of the UN Security Council to be held accountable for the annexation and genocide.

Consequences of failures of the contemporary international order

When one country seizes the territory and property of another country, two scenarios are possible: the first one assumes that the aggressor country receives a worthy military rebuff from the victim country, and the second one assumes that the aggressor country destroys the armed forces of the victim country. The legal and economic consequences for both cases in terms of international law will be completely different.

If the aggressor country receives a worthy military rebuff from its victim, which forces it to surrender, then, the aggressor country can be held accountable for the economic and moral damage caused to it in relation to the victim country. For example, Germany compensated the USSR for the damage caused to it as a result of military aggression. Germany was to pay 20 billion dollars (in 1938 prices), of which ten billion would have the right to receive the USSR, eight billion - the US and the UK and two billion are the other allies [23]. And the war criminals who unleashed the war were prosecuted.

If the aggressor is not completely defeated, then, there is no question of any compensation for the damage caused and punishment of the aggressor. The war between Azerbaijan and Armenia in the fall of 2021 is indicative in this respect. Armenia captured 13.6% of the territory of Azerbaijan and hold full control over it for 30 years. And only because of victory in the 44-day war, Azerbaijan was able to return the most of occupied territories [24]. However, it was unable to impose

reparations on Armenia for the 30-year occupation of its lands and bring war criminals to justice.

If the aggressor country fully defeats the military forces of the victim country, then, as a rule, it avoids any kind of responsibility. Moreover, it is rewarded with the opportunity to dispose of the resources and territory of the victim country at its discretion. For example, after the annexation of Crimea in 2014, Russia appropriated all state property of Ukraine located on the peninsula, two-thirds of its military fleet, and also stopped paying rent for the presence of Russian troops on the peninsula [25].

Naturally, such an order is unfair, but it continues to be preserved and operate. Therefore, it is necessary to reform the current international order of relations between countries so that it fully complies with the spirit of the times and modern requirements for security, transparency and responsibility of each country.

The discussion of the results

There are various reasons why the modern international order fails. These include the lack of effective mechanisms to neutralize wars, the lack of unified rules, the outdated structure of the UN Security Council, and unequal right on veto among its members.

In this regard, we can cite the words of Hanna Maliar, First Deputy Defence Minister of Ukraine, said that modern tools, such as negotiations, sanctions, and the presence of deterrent weapons to stop wars, do not currently work: Negotiation? Try to apply them now. We have been in the Minsk process since 2014. Sanctions do not stop the war. Nuclear weapons, which were supposed to create this balance, to keep the world from war, do not do so, either. There is no tool to moderate wars. They all understand that this is not a problem for Ukraine, it is a problem for all of Western civilization [26].

Let's analyse each of these fails of the international order separately.

Lack of effective mechanisms to neutralize local wars

The UN does not have effective mechanisms to deal with small local conflicts, despite the fact that these challenges are regularly discussed by it. This is due to the fact that they are usually carried out by proxy on the territories of third countries using hybrid methods of warfare, which significantly reduces the UN's ability to resolve them in a timely and complete manner.

So the inability to solve the problems of Donbas in Ukraine by the authorities of the country itself was because the separatist military formations of this enclave were actively and secretly supported by weapons, ammunition, finances, and volunteers from Russia. Formally the Russian authorities never recognized themselves as a participant in the conflict between Kyiv and the self-proclaimed republics and they denied their military assistance to them. Actually, they were interested in its continuation. This is proved by the fact that this conflict turned into a smouldering one, despite the fact that the military power of Ukraine many times exceeded the power of these formations and allowed the situation to be quickly resolved in its favour.

The military operation launched by Russia against Ukraine on 24 February 2022 confirmed that Russia's denial in the conflict was a pure propaganda bluff to mislead the world community regarding its participation in this.

The lack of unified international rules

Another reason is the lack of unified international rules that would unambiguously

interpret the interaction between different countries on a single legal basis, as well as define common legal grounds for imposing sanctions on countries that violate existing norms of international law and also launch a compensation mechanism for countries affected by aggression by seizing and withdrawing this money from the accounts of aggressor countries. There are no such international laws yet, they are only being developed by the international community.

Therefore, at present, no violating country can be legally held accountable and properly punished for violating international law, since there are no uniform binding international rules. Although the UN has the right to take action on behalf of the world community to bring its violators to justice, it is currently unable to effectively perform these tasks due to its outdated architecture.

The outdated structure of the UN Security Council

An important reason for the failures of the contemporary international order is the structure of the UN Security Council, in which five key places were awarded to the five victorious countries of World War II. These countries themselves do not always pursue a responsible foreign policy, since they are former colonial empires (Great Britain, the USA, France, Russia and China). Some of them believe that they are not obliged to follow the rules set by international institutions for their members.

The remaining ten non-permanent members are elected for a two-year term on a geographical basis. If 78 years ago this was a completely logical decision, now such a design does not meet the requirements of the time. For example, Germany occupies an important place not only in the European Union, but throughout the world, but it does not have permanent membership in the Security Council [27]. This situation is unacceptable both in terms of the size of the countries' economies and in terms of their geographical or religious role in the world. In terms of size, the economies of the USA and China, Japan, Germany, and India should have remained in the top five, and Russia and the UK will have to leave the top five. By geography, the countries of Latin America, the Middle East and Africa are not represented among the permanent members, as well as Islamic countries by confessions [27]. In this, Turkish President Recep Tayyip Erdogan is absolutely right when he said that the structure of the UN Security Council, which leaves more than 7 billion people to the discretion of five countries, is neither fair nor sustainable [28].

Recently, the President of Kazakhstan Tokayev noted that there is now stagnation in the work of the UN Security Council, so reform of its activities is required. To do this, he proposed including the countries of the Global South in the UN Security Council [29].

Unequal right to veto among UN members

As mentioned, only the permanent members of the Security Council have the right to veto. This gives them the ability to block any resolution, even if it is supported by all other countries. Some experts even say that members of the "five" sometimes abuse this right in their interests, which do not meet the general interests of the world community. Because of this, some important world problems are not reflected in the resolutions of the Security Council. And these are not isolated cases.

The presence of a veto can slow down the solution to various world problems. Since 1946, the veto has been used 293 times [11]. The egregious use of the veto to achieve unrighteous ends is Russia's veto of a February 25, 2022 Security Council resolution condemning its military attack on a neighbouring country. However, due to the Russian veto, this important resolution was blocked [30]. On December 9,

2023, the United Arab Emirates drafted a humanitarian resolution demanding an immediate ceasefire in the Palestinian-Israeli conflict zone in the Gaza Strip. 13 out of 15 members of the UN Security Council spoke in support of the document. However, the United States exercised its veto power in the UN Security Council and blocked a draft resolution [31].

The lack of equality in the powers of different members of the UN leads to the fact that the UN does not always pursue a single and clear policy towards countries that violate the norms of international law. Its effectiveness often depends on whether they affect the interests of the permanent members of the UN Security Council. If the country is not a permanent member, then the UN pursues a more resolute and tough policy, and if its policy affects the interests of such a member, then the UN pursues a more tolerant and soft policy. The result of such an inconsistent policy is that some international conflicts are not resolved for years, and turn into smouldering hotbeds of tension.

For instance, the current Russian attack on Ukraine could not have taken place if the West had timely intervened in smouldering conflicts in other parts of the world, such as in Chechnya in 1994-1996 [32] and in Syria in 2011-2022, where Russia began for the first time to use carpet bombing of settlements [33], [34]. During this time, the UN has not taken active and decisive steps to end these conflicts, considering them to be an internal affair of these countries, thereby stimulating further aggressive behaviour of their authorities. The main reason for this inconsistent behaviour was that Russia is a permanent member of the UN Security Council. The situation changed only when Russia attacked Ukraine for the second time. In this case, Russia was threatening the very security of Europe, which was unacceptable to the West. This served as a trigger for the West to supply modern weapons to Ukraine.

Another clear example of the abuse of the veto right is the policy of the US, which “systematically violates the U.N. Charter’s prohibition against the threat or use of force, manufacturing political justifications to suit each case and using its Security Council veto to evade international accountability” [20].

The next example of the failure of the international order is the situation with the admission of Turkey to the EU. Turkey cannot become a member for 30 years, while some other states, such as Bulgaria and Romania, which also do not fully comply with EU requirements [35], have long since become its members. In our opinion, the main reason was probably a different religion. But Europeans are embarrassed to talk about it, since they are not mentioned in the EU membership criteria.

Thus, we can state the sad truth that the current international order is by no means functioning properly. It does not prevent military aggression on the part of violating countries, nor does it force them to return to the status quo and pay material and moral compensation to the affected countries, as is usually the case in national legislation. Therefore, it needs urgent and radical reform.

Vision of an updated international order

Similar legal rules should apply between states, as those that apply within each country between its individuals or firms when they commit illegal acts, such as seizure of another's property or robbery. In this case, the aggressor country must return occupied territories and property, and pay mandatory reparations to the victim country for the harm caused to the latter as a result of a military attack. This is due to the principle of sovereignty [9], which means, that each country has the right to

independent development and the priority of national law on its own territory, except in cases where the country has voluntarily signed international treaties restricting its rights in favour of supranational organizations.

The renewed international order requires the creation of unified international laws based on the principle of national sovereignty that would regulate interaction between all countries on a fair, transparent, and mutually beneficial basis. All interested countries should take part in its development, and the introduction should be ensured based on international consensus on all key issues. As in the internal legislation of democratic countries, where there are no exceptions for any citizens, so in the international order, there should be no privileged countries, regardless of their merits in creating world order or maintaining it.

Of course, many contemporary politicians and experts, mostly from developed countries, deny the need to change the international order on an equitable basis. Why do they take such an ostrich stance? Let's make an attempt to answer this question. They fear that changing the international order on an equitable basis will open a Pandora's Box that could lead to unpredictable results. Therefore, they advocate maintaining the status quo, allowing only minor cosmetic improvements. However, such a position is not only politically short-sighted, but also threatens the long-term stability of the world international order, since unresolved and ignored problems are highly likely to lead to new conflicts in the future. We believe that it is better to face the truth and start making the necessary changes than to pretend that all is well, knowing that unresolved issues can, at some point in time, blow up the established international order because it is not inherently fair.

Transformational logic suggests that common rules and norms can drastically reduce conflicts of interest and power politics between states, creating the conditions for a more stable and just order than the power-based logic which was previously practiced in international relations [9]. All countries must be treated as equals before international laws. Otherwise, we will get the old order, where there are both seniors and junior countries, but where there is no real justice in international relations.

The following method of resolving conflicts seems to be the most appropriate. If two countries contest a particular territory, then the real owner should be the country that previously owned this territory and which was forcibly annexed from it as a result of the aggressive actions of other country. Aggressor country that has seized foreign territories must be deprived of them and should pay reparations for the economic and moral damage caused to the people of the occupied country (Annex 1). Even if a long time has passed since the occupation, the people expelled from their homeland should be given the opportunity to return to their homeland with the right to restore the national jurisdiction. A referendum on the restoration of statehood should be held only among indigenous people. If the referendum decides to evict the occupiers from the territory of the victim country, then their resettlement should be financed from the budget of the aggressor country.

The implementation of these obligations must be carried out by the UN Compensation Court or other international bodies, which should be authorized by the UN Security Council. If the indigenous population was completely destroyed by the annexation, then the aggressor country must also pay reparations. But in this case, their final destination, according to the decision of the UN, should not be the victim countries, but kindred peoples or other persons experiencing similar problems. This will be fair in relation to the aggressor country, since not a single

crime against humanity should go unpunished.

All other complex issues, as if the occupation took place many centuries ago and the successors of the affected countries no longer exist, must be clarified by the UN Compensation Court or another authorized international body through a detailed examination of all the relevant facts. For instance, in 1783 Russia seized the lands of Nogai horde in the North Caucasus. As a result, about 500 thousand Nogais were killed, some died from disease and deprivation, and more than 1 million were forced to leave their own country [36]. However, this problem has not yet been resolved, since the deported people still cannot return to their homeland, their status and rights have not been restored, their property has not been returned, and no compensation for damage has been paid.

In order to update the international order, it is necessary to endow a legitimate supranational body with the powers and rights to ensure international law and order and take immediate and inevitable sanctions measures, including military coercion, against violating countries. According to Mazarr et al [9]: A more comprehensive, transformational vision of order would be a global government that includes rules and processes for enforcing them that were largely divorced from the power of each state. This might include an order in which rules were adopted by the UN General Assembly and enforced by a neutral UN court, rather than an order in which such organizations as the UN Security Council grant special status to great powers.

Thus, a fundamental revision of the structure and principles of the UN Security Council is needed. To do this, the following key areas need to be considered:

First, the understanding and procedure for appointing permanent and non-permanent members of the UN Security Council must be changed. The division of countries into permanent and non-permanent members of the UN Security Council reflected the past realities, and now it often hinders the adoption of adequate decisions on pressing issues of world security.

In our opinion, their status should now change as follows. Permanent members should be any countries making regular and significant contributions to finance UN activities, which represent the interests of large regions, and populations. They must be strictly guided by the purposes and principles contained in the Charter of the United Nations and the Universal Declaration of Human Rights, and in case of gross or repeated violation of them, they must be replaced, without waiting for the expiration of their term, on a competitive basis. Non-permanent members can be any countries that are not in a position to make regular contributions to fund UN activities but represent the interests of large groups of countries on a geographical and religion basis. They are to be elected for a two-year term.

Secondly, the number of members of the UN Security Council, both permanent and non-permanent, should be increased. This increase will allow decisions to be made on a more objective and balanced basis.

Thirdly, the UN must completely stop the veto power of the permanent members of the Security Council, which puts different countries in an unequal position in terms of the realization of their national interests. This will make it possible to exclude absurd and incomprehensible situations when international decisions on acute problems of international security are blocked because of the right of veto.

How to implement this proposal?

According to the UN Charter, the reform of its activities requires the consent of at least two-thirds of the members of the General Assembly, as well as the support of

all permanent members of the Security Council. And the reform of the veto requires the consent of all holders of the right to waive it [27]. It is very possible under the current conditions to get the approval of two-thirds of the members of the General Assembly. However, obtaining the consent of all members of the Security Council for a voluntary waiver of the right to veto appears unlikely. None of them want to lose their positions, which give them considerable political and economic benefits. For this reason, the process of reforming the UN is hampered, despite the fact that such proposals have been received repeatedly. For example, in 2005, Brazil, Germany, India, and Japan formed the "Group of Four" (G4) to jointly advance their applications for permanent membership. In 2020, these countries again issued a declaration calling for the expansion of the UN Security Council. The Organization of Islamic Cooperation, the African Union, and the League of Arab States are also in favour of expanding the number of its permanent members [27].

It turns out a paradoxical situation. The changes are long overdue and have become obvious to everyone, but it is not possible to implement them in practice because of the position of the permanent members, who refuse to give up the veto right.

In our opinion, there is only one solution, when all the other members of the UN unite in one coalition and unanimously declare their desire to create an alternative organization to the UN. If this threat does not work and the permanent members of the UN Security Council insist on maintaining the right of veto, then an alternative UN organization will have to be created. In this case, all other members of the UN must completely withdraw from the former organization and create a new organization. This will render the old UN organization incapacitated, and its members themselves will be forced to join the new organization.

Conclusion

This article provides an analysis of the acute problems that prevent the UN from ensuring sustainable long-term global security. It is noted that the lack of a modern order is associated with the lack of a unified international legislation that defines the legal basis for interaction between countries, as well as the lack of an effective international body for resolving disputes and restoring peace and security, including the imposition of sanctions and the use of force.

This is mainly due to the current structure of the UN Security Council, which includes both permanent and non-permanent members with different rights. The first members have the right to veto its decisions; the second members do not have such a right. Unfortunately, some permanent members of the UN Security Council are abusing their veto power. This leads to the fact that some important problems of international security are solved inefficiently, which, in turn, does not contribute to long-term stability and security in the world. The article gives recommendations on how to get out of this difficult situation.

The renewed international order requires the creation of unified international laws based on the principle of national sovereignty that would regulate interaction between all countries on a fair, transparent, and mutually beneficial basis. All countries must be treated as equals before international laws, and the obsolete status quo must be eliminated.

An aggressor country that has seized foreign territories should, if possible, be deprived of them and be obliged to pay reparations for the economic and moral

damage caused to the people of the occupied country, or if this is not possible due to its complete assimilation, to make equivalent reparations to other relatives or backward peoples by decision UN. The total amount of reparations will be equal to the amount of compensation for economic and environmental damage, human losses, compensation for moral damage, compensation for cultural losses, compensation for relocation and employment of people who were deported during annexation and their families or descendants.

Annex 1

Calculation of the repatriations for annexed and non-destroyed assets

In the regard of repatriations, the question also arises: how to assess the amount of damage caused by the annexation and occupation of another country? For destroyed assets, spoiled ecology, compensation should be paid not on the basis of their market value, but on the basis of future costs for their restoration, or the creation of similar new assets, as suggested by Inozemtsev [37]. This will be a more accurate assessment of the amount of damage to such assets.

With regard to annexed and non-destroyed assets (land, deposits, factories, dwellings, etc.), compensation must be paid in the amount of the cost of all economic losses incurred (EL_i) for the entire time of annexation of the territory by the aggressor country (n years) according to the formula:

$$EL = EL_n * (1+r)^n + \dots + EL_1 * (1+r)^1 + EL_0 * (1+r)^0 \quad (1)$$

where:

EL_0 = a current year losses,

EL_1 = 1 year old losses,

EL_n = n year's old losses,

r = the discount rate.

The amount of damage caused to the country as a result of a decrease in the number of indigenous population due to annexation, in our opinion, should be calculated based on the amount of lost GDP per person who dropped out (gdp) and GDP growth rates (g), the number of declines in indigenous population (n) and its demographic growth rate (k) for each year of annexation (i).

The value of lost GDP per person should be calculated as the average GDP per capita of neighbouring countries not affected by the annexation, or, in the absence of such data, the GDP per person in the aggressor country for each year of aggression. As expected demographic growth, the rate of demographic growth in neighbouring countries or, in their absence, in the aggressor country for each year of aggression should be used.

It is also necessary to assess both direct (number of victims) and indirect (decrease in the birth rate) human losses (HL) as a result of the genocide. To do this, it is advisable to use data from similar situations. For example, for seven deported nationalities from Russia to Kazakhstan in 1944-1952, the average percent of direct losses to the number of deportees was 21%, and for Chechens, who suffered the most from deportation, - 31%. If we take into account the decline in the birth rate, then they amounted to an average of 54%, including 51% for Chechens. Hence, the total loss of life as a percentage of those expelled was 75% on average and 82% for Chechens [38]. These data can be used as proxy variables in the absence of data in case of heavy losses (Chechens) or moderate losses (average data) during the deportation of the population.

The calculation of the human losses (HL) as a result of the genocide for each i year can be calculated using the following formula:

$$HL = (gdp_n * n_n) * \prod_{i=0}^n [(1+g_i) * (1+ai) * (1+k_i)] \quad (2)$$

where:

gdp_n = the value of lost GDP per capita in n year ago at the beginning of genocide,

n_n = the number of population in n year ago,

g_i = the real growth of GDP per capita in i year ago,

ai = the percent of direct human losses in i year ago,

k_i = the population growth rate in i year ago.

In addition, the amount of moral damage should be taken into account in the amount of damage from the deportation of the indigenous population. According to the Guidelines developed by the Russian Association of Lawyers for determining the amount of compensation for moral damage to individuals, its amount can be calculated using the formula [39]:

$$MD = BSC \times CDS \times AFG \times CAC \times DGV \times OIH \quad (3)$$

where

BSC – the basic sane compensation for non-pecuniary damage. It reflects the fair amount of compensation in the absence of the unique national characteristics of the victims, with the simple negligence of the doer of harm and the absence of guilt of the victims. This amount is usually fair for most typical situations.

CDS – the coefficient of the degree of suffering, which allows taking into account the national characteristics, the unique features of causing harm and other circumstances that affect the depth and intensity of the suffering of the victims (with $0.01 \leq CDS \leq 2$). The threshold for this coefficient of 1.5 is applied in case of high suffering, and 2 in case of great suffering of the individual.

AFG – coefficient of the aggressor's form of guilt (0.25 – no guilt, 1 – simple negligence, 1.5 – gross negligence, 2 – intent). With the malicious intent of the aggressor, AFG should be multiplied by 2.

CAC – the coefficient of the aggressor's characteristics, which, due to the requirements of reasonableness and fairness, can be taken into account when determining the amount of compensation (in this case, $0.5 \leq CAC \leq 2$). In case of harm caused by the fault of state authorities, a multiplying factor of 2 is used in relation to aggressor state that condoned the criminal behaviour of their citizens.

DGV – coefficient of the degree of guilt of the victims (in this case, $0 \leq DGV \leq 1$). In the absence of intent or gross negligence in the behaviour of the victims, $DGV = 1$, with the intent of the victim, $DGV = 0$; if there is gross negligence, then *DGV* is determined taking into account the degree of guilt of the victims in the range from 0.1 to 0.9. In the case of genocide of the injured party by the aggressor, the coefficient will be equal to 1.

OIH – other factual circumstances accompanying the infliction of harm or the behaviour of the parties after that (in this case, $0 \leq OIH \leq 2$). The aggressor may have attempted to conceal the circumstances of the injury, evade voluntary compensation for pecuniary damage, act in bad faith when making a claim for compensation, or cynically mock the victim's tragedy. In such circumstances, the court should use a factor of 2.

Thus, in relation to the people who died during the annexation, the formula for non-pecuniary damage can be rewritten as follows:

$$MD_1 = BSC \times 2 \times 2 \times 2 \times 1 \times 2 = 12 * BSC \quad (4)$$

For deported people, the formula for moral damage will look like this:

$$MD_2 = BSC \times 1,5 \times 2 \times 2 \times 1 \times 2 = 9 * BSC \quad (5)$$

Of course, the amount of basic sane compensation for non-pecuniary damage (*BSC*) will be different in different countries and will depend on the level of their development. What level should be used to compensate for non-pecuniary damage in the event of genocide? In our opinion, we should take the level of compensation used on average in neighbouring countries.

The total amount of reparations (*R*) will be equal to the amount of compensation for economic and environmental damage (*EL*), human losses (*HL*), compensation for moral damage (*MD*), compensation for cultural losses (*CL*), that is, the restoration of historical and cultural monuments, and compensation for relocation and employment of people who were deported during annexation and their families or descendants (*RE*), and expenses for the resettlement of illegally entered persons and their descendants back to the aggressor country (*ER*):

$$R = EL + HL + MD + CL + RE + ER \quad (6)$$

References

1. Ikenberry, J. The end of liberal international order? // *International Affairs*. -2018. – Vol. 94. - No. 1. –P. 7–23.
2. Jones, B. and Wright, Th. The state of the international order // *Policy Paper*. – 2014. – Vol. 33. – P. 1-33.
3. Pettersson, T. and Wallensteen, P. Armed conflicts, 1946–2014 // *Journal of Peace Research*. – 2015. – Vol. 52. - No. 4. – P. 538-550.
4. A New Era of Conflict and Violence. May 2017. <https://www.un.org/en/un75/new-era-conflict-and-violence>
5. Kak izmenilas' vojna za 75 let i chego nam zhdad' v budushhem [How the war has changed in 75 years and what we can expect in the future]. 23 fevralja 2022 g. <https://trends.rbc.ru/trends/social/60cb88c79a79478efbea889c>
6. Peace and security. March 23, 2022. <https://news.un.org/en/news/topic/peace-and-security>
7. Rose, G. What Obama Gets Right: Keep Calm and Carry the Liberal Order on // *Foreign Affairs*. 2015. – Vol. 94. - No. 5. P. 2-12.
8. Lawson, G. The rise of modern international order. In *The Globalization of World Politics: an Introduction to International Relations*, ed. by J. Baylis et al. (Oxford: Oxford University Press, 2015). P. 37-51.
9. Mazarr, M., Priebe, M., Radin, A., & Cevallos, A. *Understanding the Current International Order*. Santa Monica: Calif, 2016.
10. AlShawi, H., Adnan, Z., Samsu, K. & Fee, L. Political and Security Relations between India and Southeast Asia states after the Cold War // *Pertanika J. Soc. Sci. & Hum.* – 2019, - Vol. 27. No. S1. – P. 1-13.
11. Russia blocks Security Council action on Ukraine. February 26, 2022. <https://news.un.org/en/story/2022/02/1112802>
12. Current Members. January 1, 2022. <https://www.un.org/securitycouncil/content/current-members>
13. Maintain International Peace and Security. January 1, 2019. <https://www.un.org/en/our-work/maintain-international-peace-and-security>
14. Ingelhart, R. and Norris, P. Trump, Brexit, and the rise of populism: economic have-nots and cultural backlash. Working paper, - 2016, No. RWP16-026
15. Japonija zajavila, chto Rossija okkupirovala Juzhnye Kurily [Japan said that Russia occupied the Southern Kuril Islands]. 20 aprelja 2022 g. <https://sakhalin.info/news/218069>
16. Vzjatje Kazani v 1552 godu: harizma cherez sablju, mnimaja družba s Moskvoj i kochujushhij nogajskij pancir' [Capture of Kazan in 1552: charisma through the saber, imaginary friendship with Moscow and the nomadic Nogai armor]. 13 oktjabrja 2017 g. <https://realnoevremya.ru/articles/78849-vzyatie-kazani-v-1552-godu>
17. Convention on the Prevention and Punishment of the Crime of Genocide." UN General Assembly, 1948, Approved and proposed for signature and ratification or accession by General Assembly resolution 260 A (III).
18. Universal Declaration of Human Rights. The Universal Declaration of Human Rights (UDHR)." UN General Assembly, 183 plenary meeting of the General Assembly, A/RES/217(III).
19. The United States and the International Criminal Court. November 14, 2002. <https://2001-2009.state.gov/t/us/rm/15158.htm>
20. Decades of U.S. war crimes led to what Israel is doing in Gaza. November 18, 2023. <https://www.yahoo.com/news/decades-u-war-crimes-led-110001737.html>
21. Basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law. UN General Assembly, General assembly resolution 60/147, A/RES/60/147.
22. Is it possible to force Russia to pay reparations to Ukraine? November 17, 2022. <https://www.dw.com/ru/rf-otvergla-trebovanie-oon-o-reparaciah-ukraine-mozno-li-zastavit-ee-zaplatit/a-63780387>
23. Newskiy, S., Boldyrev, R. and Plumpe. W. German reparations after World War

- II: political decisions and economic appraisals // Istotiya. – 2019, - Vol. 9. – Issue 9. - No. 83
24. Armenia, Azerbaijan gear up for Nagorno-Karabakh peace talks? April 7, 2022. <http://www.aljazeera.com/news/2022/4/7/armenia-azerbaijan-gear-up-for-nagorno-karabakh-peace-talks>
 25. Prisoedinenie Kryma k Rossijskoj Federacii [Annexation of Crimea to the Russian Federation]. 28 iyunja 2022 g. <https://ru.wikipedia.org/wiki>
 26. The Russians have been preparing for this for 30 years: How can we end the war in Ukraine? January 30, 2022. https://english.nv.ua/opinion_author/anna-malyar.html
 27. The divided nations of the UN were created for the sake of common prosperity. Why couldn't she save the world from wars and crises?" October 28, 2020. <https://lenta.ru/articles/2020/10/28/un/>
 28. Turkey's Erdogan challenges world leaders at UN Assembly to end bloodshed in Syria. 20 September 2016. <https://news.un.org/en/story/2016/09/539522-turkeys-erdogan-challenges-world-leaders-un-assembly-end-bloodshed-syria>
 29. Tokaev predlozhit vkljuchit' v Sovet Bezopasnosti OON strany Global'nogo Juga [Tokayev proposed including countries of the Global South in the UN Security Council]. 2 oktjabrja 2023 g. <https://www.zakon.kz/politika/6412666-tokaev-predlozhit-vklyuchit-v-sovet-bezopasnosti-oon-strany-globalnogo-yuga.html>
 30. The Veto. Security Council. January 1, 2020. <https://www.securitycouncilreport.org/un-security-council-working-methods/the-veto.php>
 31. Soedinennye Shtaty nalozhili veto na proekt rezoljucii s trebovaniem nemedlennogo prekrashhenija ognja v sektore Gaza. V podderzhku dokumenta vyskazalis' 13 iz 15 chlenov SB OON [The United States vetoed a draft resolution demanding an immediate ceasefire in the Gaza Strip. 13 out of 15 members of the UN Security Council spoke in support of the document]. December 9, 2023. <https://ru.euronews.com/2023/12/09/unsc-gaza-veto>
 32. Gall, C. and de Vaal, Th. Chechnya: calamity in the Caucasus. New York: New York University Press, 2000.
 33. Rossija/Sirija: Voennye prestuplenija za mesjac osennih bombezhek Aleppo [Russia/Syria: War crimes during the month of autumn bombing of Aleppo]. 30 dekabrja 2023 g. <https://www.hrw.org/ru/news/2016/12/01/296741>
 34. All life in Idlib is a target, available at Syrian-Russian strikes on civilian infrastructure. 20 November 2022. <https://www.hrw.org/ru/report/2020/10/15/376415>
 35. Tanasoiu, C. and Racovita, M. Post-Accession (Anti-)Corruption Record in Romania and Bulgaria // Dans L'Europe en Formation. – 2012. - No. 2. – P. 243-263.
 36. Suvorov noğailardy qalai qyrdy? 12 Tamyz, 2018 j. <https://abai.kz/post/74700>
 37. Crime and reparations. Konstantin Eggert on how Russia will pay for the war after Putin. August 5, 2022. <https://europe-cities.com/2022/08/05/crime-and-reparations-konstantin-eggert-on-how-russia-will-pay-for-the-war-after-putin/>
 38. Jediev, D. Demograficheskie poteri deportirovannyh narodov SSSR [Demographic losses of deported peoples of the USSR]. 27 fevralja 2004 g. <https://polit.ru/article/2004/02/27/demoscope147/>
 39. Rekomendacii po opredeleniju razmera kompensacii moral'nogo vreda pri posjagatel'stvah na zhizn', zdorov'e i fizicheskiju neprikosnovennost' cheloveka [Recommendations for determining the amount of compensation for moral damage in cases of attacks on the life, health and physical integrity of a person]. Moskow: M-logos, 2023.