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Un peacekeeping at the present stage

Метою даної статті є аналіз сучасної миротворчої діяльності ООН. Зокрема, розглядаються такі заходи, як превентивна дипломатія, миротворчість, підтримання миру та постконфліктне миробудівництво та проблеми, пов'язані з їх реалізацією.

Ключові слова: ООН, РБ, конфлікт, превентивна дипломатія, миротворчість, підтримання миру, ОПМ, постконфліктне миробудівництво.

Целью данной статьи является анализ современной миротворческой деятельности ООН. В частности, рассматриваются такие меры, как превентивная дипломатия, миротворчество, поддержание мира и постконфликтное миростроительство, а также проблемы, связанные с их реализацией.

Ключевые слова: ООН, СБ, конфликт, превентивная дипломатия, миротворчество, поддержание мира, ОПМ, постконфликтное миростроительство.

The purpose of this paper is to analyze the modern UN peacekeeping. In particular, such strategies as preventive diplomacy, peacemaking, peacekeeping and post-conflict peacebuilding as well as problems related to their implementation are emphasized.

Key words: UN, UN Security Council, conflict, preventive diplomacy, peacemaking, peacekeeping, peacekeeping operations, post-conflict peacebuilding.

One of the main tasks of the United Nations is to maintain international peace and stability. During its existence, the UN has constantly faced with requirements to prevent escalating international disputes into military actions, to persuade opposing parties to use negotiations instead of weapons, to help ensure peace and order in zones of conflicts. Attempts to circumvent or formally "hide behind" the UN has led rather to escalation of conflicts than to their resolution. Political processes in the modern world motivate politicians and experts in international relations to search for causes of occurring changes, identify general trends, define the role of the UN in maintaining the balance of power on the international political arena.

Active efforts of the United Nations to preserve peace over the past seven decades attract constant attention of scholars. Practical and theoretical aspects of modern UN peacekeeping mechanism were studied by Ye. H. Baranovskyy, M. M. Lebedyeva, A. I. Nikitin, S. M. Snehina, S. V. Tyushkevych, V. M. Fedorov, O. O. Hohlysheva, P. A. Tsyhankov and many other scientists [2; 3; 6; 7; 9; 10; 11; 12; 13; 14; 15]. It's also worth to mention specialized UN publication devoted to the UN peacekeeping activities from 1948 [17] that contains a detailed chronological and factual material. At the same time the constant evolution of UN peacekeeping, which adapts to the new challenges to international peace and security, encourages further scientific research in this area.

It was long thought that international stability could be threatened by only external, inter-state conflicts, i. e. wars, while what was happening inside of a single country, was always seen as its internal affairs in which no one was allowed to interfere. Now any event within the state can get loud resonance in various parts of the world, which sometimes, at first glance, are not even connected. According to a study conducted in 2006 by experts from Princeton University during 1900–1941 80 percents of all wars were interstate conflicts involving national Armed Forces, while during 1945–1980 almost 85 percents of all conflicts took place in the territory of single country involving, in addition to the Armed Forces, guerrilla, rebel and other illegal groups [5]. In today's world the most important value are human rights therefore their massive violations in any country can not be considered by the international community as a purely internal affair of the country.

The current mechanism of UN peacekeeping is evolving from both the conceptual and operational point of view, in order to meet new challenges and to respond to new political realities. In 1967 the UN General Assembly adopted a resolution on techniques of conflicts investigation, and in 1982 – the Manila Declaration on the peaceful resolution of international conflicts. In 1989 The Soviet Union and the United States proposed a resolution entitled "Strengthening international peace, security and international cooperation in all its aspects in accordance with the UN Charter" [4, p. 30–31].

One of the main principles of international law and the cornerstone of the collective security system envisaged by the UN Charter, is the exclusive monopoly of the Security Council to make decisions on the use of force in international relations, except the right to self-defense. Also prerequisite for the use of military forces in peacekeeping

operations is the consent of the conflicting parties. As for the concepts of "the peacekeeping" and "peacekeeping operations", which eventually are associated with the UN itself, they are absent in the Charter at all. For the first time the term "peacekeeping" was used by UN Secretary-General Dag Hammarskjold to describe tasks of emergency UN forces that controlled the borders between Israel and Egypt in Gaza on the Sinai Peninsula in 1956 [1, p. 78]. In general, the content of two chapters of the UN Charter complies with the interpretation of this concept: Chapter VI (concerning peaceful settlement of disputes) and Chapter VII (concerning coercive measures to restore peace). That is why Dag Hammarskjold called peacekeeping operations as measures under Chapter VI ½ of the Charter [16, p. 2]. In fact, peacekeeping operations were formed as a response of the Security Council on situations in which the application of peaceful means of resolving disputes between the parties envisaged by Chapter VI of the UN Charter did not reach the desired result, while the use of force according to Chapter VII was impossible. Consequently, peacekeeping operations are not regulated in the UN Charter. However, it's doctrinally accepted that they are implemented to develop the main provisions of the Charter. The elements of the international legal support of UN peacekeeping can be found in Artsclcs 39, 40, 41, 42 and other articles of Chapter VII, Artsclc 29, paragraph 2 Artsclc 11 and paragraph 1 Artsclc 24 of the UN Charter [17]. The UN peacekeeping operations are based on conjectural powers of the United Nations which are necessary for the maintenance of international peace and security through effective collective measures. The Chapter VII of the UN Charter, which provides for enforcement measures in the case of threats to the peace, breach of peace and aggression, does not preclude the application of other measures to ensure international peace and security. We agree with the researchers [10] who consider that the debates about the legal framework of the UN peacekeeping operations have no practical significance today. Obviously, relevant international legal provisions are developing and changing in accordance with the expansion of UN peacekeeping. In particular, the principles of planning and conducting peacekeeping operations (principles of consent, impartiality and non-use of force except in cases of self-defense), standard procedures for their implementation, the model agreements on status of forces and status of missions in the host countries etc were established. Numerous resolutions of the Security Council on specific peacekeeping operations, as well as statements by the President of the Security Council on

various aspects of their preparation and conduct, which together form the current international legal institute of the UN peacekeeping, were approved.

Design of the modern conception of peacekeeping is associated with the end of Cold War. The report of the UN Secretary-General B. Boutros-Ghali "Agenda for Peace" (June 17, 1992) approved by the Security Council determined measures for peace: 1) preventive diplomacy; 2) peacemaking; 3) peacekeeping; 4) post-conflict peacebuilding [8, p. 436].

Preventive diplomacy can be defined as actions to prevent disputes between parties, to prevent escalating existing disputes into conflicts or limit the scale of conflicts after their occurrence. According to the UN General Assembly Resolution [8, p. 436] preventive diplomacy may require such measures as confidence-building, early warning, fact-finding and other measures, the implementation of which must properly combine consultation with Member States, tactfulness, confidentiality and objectivity.

90th of the XXth century have demonstrated that for the UN it's easier to prevent disputes and conflicts than to solve them. Much of B. Boutros-Ghali's report "An Agenda for Peace" is devoted to preventive diplomacy as an important instrument of settling disputes and conflicts by traditional non-military means. In 2000–2001, Kofi Annan defined prevention as the foundation of the whole system of international security. Prevention strategies should be aimed rather at eliminating the causes of conflicts than on their external manifestation in the form of violence. He also defined preventive diplomacy and preventive measures as policy instruments to ensure peace and security, allocating them into group of activities that precede legal (peacemaking) and military (peacekeeping operations, enforcement measures) actions. Kofi Annan has provided preventive mechanisms a special place within the framework of the system of ensuring international peace and security. Among them – the protection of human rights based on international conventions, peacekeeping operations, sanctions, arms reduction.

The conception of preventive diplomacy has been substantially extended in the form of additional preventive measures with legal and military-political content. UN is watching the political events in the world attentively identifying threats to international peace and security in order to provide the Security Council with the opportunity to take preventive measures or promote them. Envoys and special representatives of the Secretary General are engaged in preventive diplomacy and mediation

in various parts of the world in order to facilitate the conciliation of conflicts. In many cases this work is done in cooperation with regional organizations.

Peacemaking means the use of diplomatic instruments to encourage conflicting parties to cease hostilities and start negotiations on a peaceful solution of their dispute. UN offers a variety of tools to contain and resolve conflicts and to identify their underlying causes. The Security Council may recommend ways to resolve the dispute or instruct the Secretary General to be a mediator. The Secretary-General may put forward diplomatic initiatives aimed at promoting and ensuring the continuation of negotiations. UN Secretary-General plays a key role in peacemaking, both personally and by sending special envoys or missions for specific tasks. According to the UN Charter, he may bring to the attention of the Security Council any problems that may threaten international peace and security.

Such method of prevention and settlement of disputes and conflicts as *peacemaking* is widespread in recent years. The term "peacemaking" was first used by the Security Council at the first meeting of the Summit on January 31, 1992. Peacemaking must necessarily precede peacekeeping operations and should be applied to settle the dispute, in order to prevent its escalating into conflict. This method involves the use of peaceful means listed in Chapter VI of the UN Charter. In particular, these are negotiations, inquiry, mediation, conciliation, arbitration, judicial hearing, and appeal to regional agencies or agreements. Means of dispute settlement and conflict resolution set out in Chapter VI of the UN Charter have been further developed in various declarations adopted by the General Assembly, particularly in the Manila Declaration on the peaceful settlement of international disputes (1982), the Declaration on strengthening the effectiveness of the principle of refraining from the threat or use of force in international relations (1987), the Declaration on the prevention and removal of disputes or situations which may threaten international peace and security and the role of the United Nations in this area (1988).

UN has considerable experience in the use of peaceful means. Consequently, some disputes and conflicts remain unresolved not because methods of their peaceful settlement are unknown or they are insufficient. The reason could be, firstly, the lack of political will of the parties in reaching settlement of their differences through tools under Chapter VI of the Charter, and, secondly, the lack of relevant levers for a third party if such a procedure of settlement is chosen. Also in the

context of the conflicts of the new generation a clear lack of qualified specialists in the field of preventive diplomacy and peacemaking was obvious that sometimes led to disruptions in the peace process. Many researchers have rightly pointed indifference of the international community to a particular problem or its evaluation as a peripheral and not worthy of the UN attention (for example, the situation in Rwanda or the current situation in the east of Ukraine).

Peacekeeping means ensuring UN presence in a particular region that is authorized by the Security Council with the consent of the host country. The staff of those operations may include both military and police as well as civilian personnel. Operations may take the form of military observers' missions, peacekeeping forces or a combination of elements of both missions.

Consequently, peacekeeping operations are traditionally divided into two categories, that have took shape in the period of the Cold War:

- military observers' missions composed of relatively small number of unarmed officers who perform such tasks as monitoring the implementation of the cease-fire agreements, control of withdrawal of troops or patrolling borders and demilitarized zones;

- peacekeeping forces composed of national military contingents deployed to perform tasks similar to those, which military observers perform, and often in order to serve as a buffer for the parties of the conflict [8, p. 438–439].

Knowledge and experience accumulated over the years formed the basis for the formulation of new peacekeeping tasks such as preventive diplomacy, the establishment of temporary administration to manage the area in the post-conflict period, providing guard upon delivery of humanitarian assistance, and help in creating a stable and secure environment for efforts to consolidate peace after conflict. The evolution of peacekeeping operations meeting the needs has resulted in increasing number of complex operations. The peacekeeping forces composed of troops, police and other civilian personnel are involved in solving problems of assistance in establishing political institutions and expanding their base together with governments, NGOs and local civil groups, emergency relief, demobilization of former combatants and their reintegration into society, defusing mines, organization and conduct of elections and creating conditions for sustainable development. Thus, peacekeeping was transformed from a traditional, primarily military model of ensuring compliance with the cease-fire and separation of

forces after interstate wars into complex model consisting of numerous military and civilian elements that interact.

Activities of the United Nations to maintain international peace and security have passed evolutionary way of development. At its beginning fundamental principles of peacekeeping were produced: impartiality, neutrality, the use of weapons limited to cases of self-defense, the consent of conflicting parties to settle the dispute by means of third persons. But history shows that all these principles are interpreted in a new way during current peacekeeping operations. However, as before, the consent of parties, impartiality and use of force for self-defense are universally recognized basic principles of peacekeeping.

After the Cold War, UN peacekeeping activities are often combined with peacebuilding in complex peace operations that are deployed in the conditions of internal conflicts. The challenges and costs associated with such operations are much greater than in the case of traditional peacekeeping operation that deals rather with symptoms than with sources of conflict and has no "retreat strategy".

In complex peace operations the task of peacekeepers involved in the operation is to maintain safe local environment for peacebuilding while the task of those engaged in peacebuilding is to support political, social and economic changes that enable creating safe environment. A prerequisite for effective peacebuilding is to form a special coordinating center – the Peace Building Commission.

Post-conflict peacebuilding means actions to prevent the recurrence of violence between nations and peoples after the elimination of conflict or conflicting situation. Areas of those activities include military security, the establishment of the rule of law, human rights, elections, organizing local government, health protection, education and recovery. Peacebuilding is conducted after the conflict to restore the foundations of peace and give tools to build something greater than just the absence of war. This term is not expressly contained in the Charter of the UN and is its invention similarly to peacekeeping operations.

The conception of ensuring peace and security has gotten its further development in the B. Boutros-Ghali's report "Supplements to the Agenda for Peace" as well as in Kofi Annan's reports, the most important of which is the report on the UN activities in 1998 "Partnership in the name of Global Community". "Brahimi Report" (Lakhdar Brahimi – former Prime Minister of Algeria – L. M.) has also influenced on the development of the UN peacekeeping conception. The report, which was initiated by the UN Secretary-General in 2000, has offered a new

vision of a mechanism to ensure international peace and security. The mechanism has included conflict prevention and peacemaking, peacekeeping, peacebuilding, and the UN peace operations. New peace operations have supposed a combination of observation, peacekeeping and coercive component. "Brahimi Report" has proposed to consolidate the evolution of UN peacekeeping mechanism and combine all activities of the United Nations into the concept of peace operation. The report contained recommendations on minimum requirements, compliance with which is essential to the success of UN peacekeeping missions. They have included a clear mandate, consent of the conflicting parties with conducting operations, the availability of adequate resources to fulfill the mandate and restraining of possible "ill-wishers". Applying the reasoning set out in the report a number of measures to improve peacekeeping operations through a new vision of their basic principles was adopted, namely:

1) impartiality in new operations should mean adherence to the UN Charter principles and the mandate purposes, but this impartiality shouldn't be equivalent to neutrality or equal communication with all conflicting parties that could be reduced to a policy of appeasement. In some cases, conflicting parties can be obvious aggressors and victims, not morally equal subjects (as in Rwanda);

2) powers of missions to use force should be clearly assigned in mandates. This means that peacekeepers can create a threat of convincing prohibition in contrast to symbolic and non-threatening presence, which was inherent to traditional peacekeeping.

At present the UN peacekeeping has reached an unprecedented scale, pace and goals. Currently, the UN Secretariat administers 15 peacekeeping operations and 2 political missions (peacebuilding operations in Burundi and Afghanistan): Seven peacekeeping operations are deployed in Africa (Chad, Ivory Coast, Darfur, Democratic Republic of the Congo, Liberia, Sudan and Western Sahara), one mission – in the Caribbean (Haiti), two – in Europe (Cyprus and Kosovo), three – in the Middle East (Lebanon, Golan Heights and the regional mission) and two – in Asia (East Timor, India and Pakistan). The number of personnel, weapons and military equipment involved in peacekeeping operations is significantly increased: in 15 missions about 116 thousand men from 118 countries are involved, including 79 thousand servicemen, more than 2 thousand military observers, about 11 thousand policemen, more than 20 thousand UN volunteers as well as other international and local civilian personnel [5]. Intensification of UN peacekeeping has led to

a sharp increase in costs. The annual peacekeeping budget is almost three times the size of the annual regular budget for the rest of the UN Secretariat. At the same time, rapid increasing of the requirements for UN peacekeeping operations indicates conservation of significant problems. Business analysis, audits and investigations conducted in recent years have found significant shortcomings: inefficient management, fraud, corruption in the purchase of property and goods for UN missions as well as sexual exploitation of people and abuses by UN peacekeepers and civilian staff. UN peacekeeping operations can be useful and successful, if the personnel who takes part in them is aware of responsibility and understands the goals, objectives, limitations and weaknesses. This understanding is essential, since the requirements for UN peacekeeping is unlikely to be reduced in the near future. It requires from contributing countries to take urgent changes and measures to correct the situation already now. Without fundamental reforms, these problems will likely deepen and persist, undermining the credibility to the UN and its ability to perform key tasks of maintaining international peace and security.

We can outline some general approaches and ways to achieve greater effectiveness of UN peacekeeping:

1. The UN Security Council should have a more balanced approach to the definition and application of contributions system for UN peacekeeping needs. Under the current system the richer countries should bear most of the costs, while there are many countries contributions of which can be called symbolic. This creates a situation when countries that actually do not pay anything and almost do not bear any responsibility have an opportunity to monitor and influence on deployed missions and the distribution of funds or UN peacekeeping operations' budget execution. It is clear that the major UN financial investors have weak motivation to participate more actively in operations by providing forces or other resources.

2. The UN Security Council and key international actors should exercise extreme caution and wisdom, basing on a comprehensive analysis of the situation in each case when deciding on deployment of the UN mission. It should mean establishing transparent and really achievable goals of operations, careful planning of requirements, providing of necessary reserves of resources before the operation (at the planning stage) as well as design of "exit strategy" from the operation. A similar approach should also be applied when viewing the mandates of existing operations, which has long required deep analysis

and reformatting. If the mission has been unsuccessful for a long period or hasn't played a constructive role in resolving the situation, the Security Council should initiate completing such an operation. Otherwise responsibility for achieving goals and the cost of maintaining the mission should be distributed between countries that try to continue it because of their political interests, as happened in Cyprus with UNFICYP, where Greece and Cyprus pay 40 % of the cost of keeping missions.

3. Initiating mission, it should be kept in mind that short-term, "easy" missions are very rare. Consequently, the Security Council must calculate the duration every peace operation. Excluding all components of peacekeeping operations in specific circumstances (possibility of a regional intervention or creation of a coalition, desire and political will of the conflicting parties, sufficient financial, human and material resources etc), the Security Council should not approve an appropriate mandate for any mission.

4. In order to meet the increasing demands and organize effective planning of future operations the structural reform of the UN Secretariat should be continued. The structure of UN governing bodies should become more flexible, their reinforcement should be transparent and implemented by skilled experts. Therefore, the need to create databases and personnel reserve has long arisen.

5. Since the UN has no regular armed forces and entirely depends on Member States that provide the appropriate forces to fulfill UN mandates, idea of a global network of "peacekeeping capabilities" especially in Africa, remains valid. In 1994 the UN established Standby Arrangements System (UNSAS). It consists of conditional pledges by Member States to have a precise estimate of the forces and other resources available at an agreed state of readiness for deployment as part of an UN peace operation. About 87 countries are participating in UNSAS. Recently, Japan also expressed its willingness to participate in this system. However, since the resources declared for UNSAS has not been used yet, the system does not work. Therefore, Global Peace Operations Initiative launched by the US is worth of attention. Within its framework the United States try to increase peacekeeping resources and to assist regional organizations in performing peacekeeping tasks. It is also necessary to develop an information database of available resources and reflect all aspects of UN peacekeeping. The problems of delegating more responsibility for national contingents' management toward UN missions and reducing the list of restrictions on the use of forces imposed by host countries also remain painful and therefore unresolved.

6. Current systems of logistics and procurement should be reformed to ensure full transparency and strict accountability of those involved. First of all we are talking about a mechanism of independent monitoring of those activities and processes as well as reliable system of internal investigations.

7. The UN Security Council should continue an uncompromised work on implementation of behavioral standards unified and mandatory for all military and civilian personnel involved in UN peacekeeping operations. In order to really put an end to sexual exploitation, abuse and other offenses that do not meet the peacekeeper status, the UN must take decisive steps that are not limited only to the adoption of the UN code of behavior, the release of regulations and repatriation of offenders homewards. First of all, it seems to be the creation of an environment of intolerance, in which violators and national governments are aware of the inevitability of the consequences of violation of the behavioral code. A number of established mechanisms should oblige Member States to take part in investigations together with relevant structures of the UN Secretariat and use all the possibilities of national legislation to prosecute the perpetrators of crimes and offenses. Countries that are not able to fulfill the requirements for maintaining discipline of their contingents should be prohibited to participate in international peacekeeping operations under UN auspices.

Thus, despite the existing problems there is no reason to question the importance of the UN efforts in ensuring peace. Weighty argument in favor of the UN peacekeeping could be its recognition by the world community: in 1988 the UN peacekeeping forces were awarded the Nobel Peace Prize [16, p. 72]. For example, the UN mission in Cambodia, where UN peacekeepers have helped restore stability after the dictatorship and civil war, was successful. Also, no one wants another Rwanda. Therefore, we must always remember that the consequences of inaction can end tragically.

The vast majority of UN Member States generally support the expansion of UN peacekeeping. They recognize that support for UN operations corresponds to their interests and is a cost-effective way to influence the situations affecting the national interests of many nations without requiring their direct intervention. Although the history of UN peacekeeping includes quite a lot of negativity, it's indisputable that so far peacekeeping operations are the only convenient means of multilateral promotion of peace efforts, democratic transition and post-conflict reconstruction as well as resolving humanitarian problems in

situations when conflict or instability makes civilians especially vulnerable. That is why the experience of operations that were less successful shows that the Security Council should approach carefully and wisely to the decision to deploy peacekeeping operations. The dialogue "New Partnership: Agenda" launched recently by the UN Secretariat with contributor countries aims to identify jointly challenges and problems of UN peacekeeping and ways to overcome them. It is to be hoped that common efforts will result in the right solutions that would inspire the UN activities in ensuring peace and international security.

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