The UN and the Crisis of International Law

ARVAK Center comment, 13.10.2024[1]

On October 2, 2024, the Israeli government declared UN Secretary-General António Guterres *persona non grata*. Israeli Foreign Minister Israel Katz officially notified that Guterres was banned from entering the Jewish state. I. Katz explained this decision by the fact that A. Guterres "*did not unequivocally condemn Iran's missile strike*". On his page on the social network "X", the head of the Israeli Foreign Ministry wrote: "*Anyone who cannot unequivocally condemn Iran's heinous attack on Israel, as almost every country in the world has done, does not deserve to step foot on Israeli soil*".

This marks the first time in UN history that a member state of this seemingly most influential international organization applied such sanctions against its head. The case is unprecedented, as evidenced by the reaction of both ordinary and key UN member states, including members of the Security Council. An hour after Katz's statement, the Russian Federation's permanent representative to the organization, V. Nebenzya, at a meeting of the UN Security Council, called Israel's actions a "*boorish*" act and a "*slap in the face*" of the Security Council. The United States was more reserved in its comments on this issue, but also made it clear that Tel Aviv's behavior was beyond acceptable norms. The US State Department spokesperson M. Miller said at a briefing for journalists that Israel's actions were not welcomed by its main ally, Washington: "*We don't find that step to be productive in any way*". In turn, China also expressed support for A. Guterres, condemning Tel Aviv's actions. According to PRC Permanent Representative to the UN Fu Kong, Beijing is against "*Israel's unjustified decision directed against itself*".

Similar appeals have already been made by many countries, both at the level of ambassadors to the UN and heads of foreign policy offices and state leaders, which testifies to the high resonance of the Israeli initiative. For the international audience, it was not a matter of an ordinary demarche against one or another UN decision or simply a condemnation of its passivity, but of a derogatory attitude toward a person in the status of the highest representative of the international political and legal structure, which is the guarantor of compliance with and preservation of the rules of the existing world order.

And yet, it would be incorrect to claim that the reason for the unprecedented scandal is mainly rooted in Israel's "*arrogance and atrophied perception of reality*", which some non-permanent members of the UN Security Council have already managed to accuse it of. The self-confidence of the current Israeli authorities and their desire to interpret events exclusively through the prism of their own interests and the presumption of permissiveness and their own innocence is not a secret quite a long time. It is noteworthy that the motives prompting Israel to resort to a *demarche* against the UN do not stem from "resentment" for the inaction of this structure in response to Palestinian and Iranian "aggression". A much more significant role was played by the feeling of impunity of the Jewish state itself, which did not experience any punishment from the UN for gross violation of the norms and rules of

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international law concerning Iran, Palestine and other entities hostile to it. Even formal UN arbitration has lost all significance for Tel Aviv.

How did the UN allow its authority to fall to such a level? What is the extent of the organization's guilt and its institutional incapacity that made such an incident possible? After all, from an objective point of view, given the mass of questions about the UN activities in the international arena, the above-mentioned scandalous step could have been taken not only by Israel, but also by many other countries deprived of the attention and justice of the international community. Another question is that right now it is the Jewish state that enjoys the extent of independence and strength that allows it to "slap" the leading international institution. The question is not about the organization itself, and moreover not about the personality of the Secretary-General, but about the universal institute of international law, the system-forming link of which is the UN.

Israel, thus, publicly voiced the truth that everyone knew, but preferred not to say it out loud: the international law no longer works. Consequently, the only source of legitimizing the interests of countries is considered the "law of force", just the one capable of establishing new rules and a new order.

"The law of force" has, in essence, long been an imperative norm that shapes the global geopolitical reality, hiding behind supposedly valid and universal principles of justice and humanism. A review of the history of the development of the system of modern international law allows us to identify two main factors that over time became the key reasons for the crisis that befell this institution.

Firstly, the process of reorganization of spheres and spaces of influence in the world that started after the collapse of the USSR, which showed that the dismantling of old and construction of new geopolitical configurations is impossible if the letter of international law is followed. Secondly, against the background of technological progress, degradation of the value system of societies played a significant role, forming a new type of society, distinguished by its commitment to consumerism and rejection of universal norms of morality and humanism. Conformism, lack of spirituality and indifference became markers of society's behavior, largely predetermining the corresponding environment for new political views and priorities of the elites.

The wave of spirituality and humanism that swept the world in the 1940s and 1950s, which led to decolonization in the world and "bonuses" for the disadvantaged strata of society, has abruptly rolled back, leaving the contradictions and ambitions that had accumulated over these decades on the surface. The process of reorganization of the world order acquired various ideological frames depending on the global players and their goals. The West operated with ideological concepts of "*globalization*", "*liberalization*" of the world, while the global East generated ideas of multipolarity, diversity and preservation of the cultural and civilizational differentiation of the world.

At the same time, despite diametrically opposed aspirations and the resulting multidirectional practical tasks, both poles formally demonstrated compliance with international law, enshrined in the UN Charter and codified sets of the norms and rules recognized as universal for the entire world community. The very letter of international law,

like the Old Testament tablet, was not questioned by anyone and was not subject to editing or correction. However, instead, the law was subjected to widespread violation through its free interpretation. It was precisely the factor of free interpretation of international law that opened the way for actors in the global geopolitical confrontation to advance their interests by circumventing declared norms and rules of the existing world order. And it is exactly this circumstance that became the reason of emergence of the "double standards" policy, which plunged the UN institution into stagnation.

The bombings of Yugoslavia, Iraq and Libya, unauthorized by a consensus decision of the UN Security Council but carried out with reference to all sorts of provisions of this organization on the protection of security in the world, exemplify the principle of "*the law must be observed here, not necessary there*". In many ways, the confusion of provisions of international law themselves and the lack of unambiguous argumentation and uniform interpretation made the task of the violator entities easier. The UN Charter and hundreds of acts adopted by this organization have not contributed up to date to a clear political and legal delineation of the conceptual apparatus in such issues as "*inviolability of borders*" and "*right to self-determination*", "*occupation of the territories of an adjacent country*" and "*creation of a security buffer zone*", "*terrorist activity*" and "*forced self-defense*".

Concerning the actual vagueness of criteria and methods for qualification of these concepts, as well as available powerful political lobbying, the institution of international law, represented by the UN, began to make completely different assessments of similar problems and practice selective approaches. The secession of South Sudan was qualified as an act of realization of the right to self-determination, while the Nagorno Karabakh referendum on independence from Azerbaijan was interpreted as not complying with international law. Russia's invasion of Ukraine is interpreted as an act of aggression and occupation, while Ankara's seizure of northern Syria is practically welcomed with reference to the imperative of Turkish border security. Actions of terrorist syndicates in the North Caucasus are presented in the light of a liberation insurgency, in contrast to which the massive punitive actions of the Israelis against civilians in Gaza are interpreted as a "*large-scale anti-terrorist operation*".

Another key indicator of the failure of international law institutions is the lack of a mechanism for unconditional measures to hold accountable countries and other entities that violate the international order and its rules. The practice of sanctions in the UN policy is selective, influenced by internal and external lobbying. The most illustrative example of the crisis in this area are the numerous verdicts of the International Court in The Hague, operating under the UN auspices, whose execution is delayed or completely ignored by the defendant countries. The International Court itself does not have the tools to coerce defendants, but the United Nations, which established and guarantees the work of this structure, has the ability and has the right to initiate sanction pressure through its own and other structures, as well as the institutional capabilities of its member states. However, this is not always done, which calls into question not only the quality of the organization's work and its viability, but also its authority.

An episode of the Nagorno Karabakh agenda serves as clear evidence of degradation of the UN's action algorithms in the logic of "guilt-responsibility-coercion". In February 2023,

the International Court of Justice, at the request of Armenia, ordered Azerbaijan to ensure unimpeded movement along the Lachin corridor within the framework of provisions of the *International Convention on the Elimination of All Forms of Racial Discrimination*. Baku not only failed to comply with this requirement, but also tightened the blockade of the Republic of Artsakh, after which Azerbaijan militarily ceased it and organized the ethnic cleansing in the Nagorno-Karabakh territory. The Court in The Hague certified Azerbaijan's gross violation of international law and its obligations. The Court's reaction obviously legitimized sanctions that the UN could have used to hold Baku accountable. However, the UN took no action, thereby opening the way for Baku to take similar steps in the future, contradicting the fundamental principles of international law.

Such tactics by the UN in numerous conflicts and international problems in general have given nearly all subjects-consumers of international law in the world grounds to accuse this international organization of softness, corruption and opportunism. Without going into the details of all accusations brought against the UN, it should be noted that the definition of "*opportunism*" most comprehensively reflects the nature of its behavior and actions in the international arena. There is no doubt that the UN institution, originally designed as a balancer of global geopolitical processes, cannot shield itself from the direct influence of the main players in international politics. The UN is a structure entirely dependent on the international situation and the geopolitical balance of power. However, the objective reality suggests that this organization, long entangled in a web of interests and contradictions of global centers, can no longer claim the role of keeper of the "tablets" of international law. And the problem lies not in the UN itself, this formal superstructure of a pyramid of the previous world order, but in the reorganization of this very order, which was a consequence of the WWII, but is no longer relevant to modern reality.

The "tablets" of international law will not be edited, but while the world is in the process of searching for its new configuration and value system, this law will not operate. And for now, only the "law of the strong" is in full effect and honored, which Israel was the first to demonstrate openly and unceremoniously.