UNIT 11 CONFLICT MANAGEMENT AND CONFLICT RESOLUTION

Structure

11.1 INTRODUCTION

International Conflict Management refers to international political, legal institutional mechanisms available to and used by states and international institutions to manage conflict. It sometimes involves the use of force or force short of war and includes coercive diplomacy and methods like sanctions etc. It attempts at reducing, manoeuvring and mitigating conflict. It may involve alliances, procedures of international law for dispute settlement, arms control and disarmament and use of the UN for peacekeeping in general. In short, it involves mechanisms in search for security in an insecure world. The basic assumption is that conflict in the international system is unavoidable. However, it is contended that even in extremely hostile relations between states there is a perceptible element of co-operation lessening of conflict, which obviously requires widening the area of co-operation and narrowing of the areas of difference. This topic is so important for the wider subject of peace and conflict studies that many of the following points also find mention at other places.

11.2 INTERNATIONAL CONFLICT

Armed conflicts around the world take place usually for gain (territorial or resources); dominance, historical animosity, or prestige or irredentist identities. It is possible to manage conflict by addressing some of the basic causal factors that lead to conflict between states. While earlier in the Nineteenth century the balance of power theory was evolved as a antidote for conflict, the Twentieth century witnessed the-growth of new institutional and legal mechanisms for management of conflict, especially during the inter-War period. The post-War period has also seen the development of new modalities of international diplomacy.

Conflict between states and within states represents differing interests, incompatible perspectives as perceived by the parties concerned. Initially conflict can be 'latent' and may take the shape of 'covert' activities.

'Latent' conflict becomes an 'overt' one at some point. Conflict can also be an 'identified' conflict or an 'unidentified' one. An 'identified' conflict is based on mutually perceived incompatible interests relating to a set of areas of dispute. An unidentified conflict exists even in the absence of clear areas of disagreement. The manifestation of open conflict depends on the tolerance levels of the parties to a dispute. Kenneth Boulding characterises the nature of international conflict as one marked by an alternation of peace and war. International open conflict depends to a large extent on the threat perception and the mode of the threat posed. There are different perceptions as to the impact and affect of conflict on the international system or on states. It can either be destructive or even constructive leading to integrate peace processes. There are writers who have viewed conflicts in terms of development 'triggers'. Conflict resolution essentially presupposes the termination or ending of a conflict. However conflicts can end by other means too like withdrawal, conquest, negotiations and bargaining.

Conflict is distinct from 'tensions'. Tensions include latent hostility, suspicion etc but does not manifest in overt opposition. However 'tensions' between states usually precede a 'conflict'. International conflict is between states. However leaders of states may and can determine the nature of such a conflict. Conflict that occurs within a State takes the form of revolutions, coups, civil disorders, terrorism etc.

Several studies on conflict have focused on war or armed aggression between states. The Correlates of War (COW) project at the Michigan University or the peace and conflict research project at Uppasala University in Sweden are among the major studies which have focused on wars around the world. It has been observed by some of these studies that the nature of conflict has changed in response to developments in military technology. The intensity, duration and geography of conflict has been influenced and transformed by new weaponry. Two features of the post 1945 world relate to: (a) reduction of conflict between states in the developed world, (b) the occurrence of most conflict geographically in the less developed and developing nations.

Nuclear weapons and other weapons of mass destruction seem to have restrained those possessing them from going to war or from intensifying an ongoing war.

Broadly, several theories of conflict can be categorised into three groups. Firstly, those that emphasise human nature as the basis for conflict (Konrad Lorenz, Ted Robert Gurr etc). Secondly, those that emphasise the internal characteristics of states like the form of government, ethnic divergence, economy, military strength, size and ideology etc. Lastly, there are theories, which try to identify 'cycles of war and peace' in the international system. Conflict management or resolution involves the need to understand and analyse conflict from such diverse perspectives and find solutions.

11.3 CONFLICT RESOLUTION

"The development and implementation of peaceful strategies for settling conflicts– using

alternatives to violent forms of language– are known by the general term conflict resolution" (Goldstein, 2003). Conflict resolution mechanisms are not new. As we saw in Unit 7, the Charter of the United Nations lists some methods by which conflicts can be resolved between states. Article 51 lists methods for peaceful settlement of disputes between states. However, recourse to conflict resolution has been steadily increasing and has become more refined and successful.

It is possible that escalation towards conflict between states can be slowed down or reversed. Charles Osgood and Morton Deutsch and Amitai Etzioni argued that a government wishing to de-escalate a conflict should make a limited 'unilateral concession or gesture of conciliation' which the adversary is likely to reciprocate. Now regarded as Confidence Building Measures (CBMs) such acts by adversarial nations can reduce or mitigate conflict. In the previous unit of this volume, you have been acquainted with the evolution and operation of CBMs in Europe and Asia. However, unilateral conciliatory acts may be rebuffed and conflict can result. In fact, on occasions, an aggressive state may consider such behaviour as an exhibition of weakness. It can be construed as appeasement and lead to greater intransigence on the part of the adversary.

There exists an opinion that processes of internal structures of one or both of the conflicting countries can end conflict. Democratisation of an authoritarian regime or collapse of a regime can bring in peace and de-escalate conflict. As you are aware, the collapse of the Soviet Union led to the end of the Cold War.

Karl W. Deutsch suggests that conflicts tend to arise among nations with a high degree of interdependence and interaction, which have opposite interests. Outcomes that are beneficial to one country may be penalising for the other. In such cases, conflict can be managed or reduced by reducing interdependence. As interaction declines so do possibilities for conflict. Another method of reduction of conflict involves reduction of mutually opposing interests. The removal of Soviet ballistic missiles from Cuba in 1962 is a good example here.

Thomas C.Schelling who has written extensively on deterrence has presented an interesting perspective on the need for countries to avoid conflict. He argues that two parties involved in a threat of attack have a common interest in not having the threat being carried out. The threatened action is unwelcome to the threatened nation and is also costly or unpleasant to the threatener. In this context, negotiations'or third party good offices would tend to avoid the conflict.

In today's world of international politics, new and improved instruments of conflict resolution are available. International law, international organisations and supranational organisations have all been contributing to the resolution and management of international conflict.

Richard E. Barringer considers conflict as a subset of all disputes between parties capable of waging war. The most inclusive concept is that of dispute, subsuming as it does all conflicts, both those that eventuate in hostilities and those that do not. In analytic terms, a dispute arises between parties capable of waging war when at least one party becomes aware of an incompatibility of perceived interests, objectives, or future positions. The essence of a dispute is a felt grievance by a party capable of waging war that, in its eyes, demands some more tolerable accommodation with another party than presently exist. If

the grievance is of such a magnitude as to warrant action by this party, a multiplicity of political mechanisms and institutions exists for achieving accommodation.

11.4 METHODS OF CONFLICT RESOLUTION

Whenever there is conflict of interests between states, war is only one of the possible modes of policy to resolve the conflict. War remains as only one of the conflict resolution procedures. Other conflict resolution procedures involve negotiation, conciliation, mediation, arbitration and adjudication. You have been acquainted with these in Unit 7 of this volume. However, the fact that conflict exists in the international system makes it necessary that states develop mechanisms for adjustment and settlement of disputes among them. Whenever conflict intensifies into a probable armed conflict, a formal adjustment becomes necessary. National prestige can become an impediment to conflict resplution. It is in such a scenario that pacific settlement of disputes based on formal procedures and practices has to be resorted to. Diplomatic–political and judicial methods have to be used forsettlement of disputes. Diplomatic methods include negotiations, good offices, mediation, inquiry and conciliation. Judicial procedures include arbitration and adjudication. Some further aspects of these are discussed in other units of this volume. Still, these could be briefly mentioned here.

11.4.1 Diplomatic Methods

Negotiation: Negotiations between nations in conflict can be either bilateral or multilateral. These can be conducted directly between Heads of State or Ambassadors or special representatives of the countries involved. Negotiations can be held between conflicting parties through an international conference also.

Negotiation, good offices, mediation. conciliation and inquiry are methods of settlement of disputes less formal than judicial settlements or arbitrations.

Negotiation usually proceeds in conjunction with good offices or mediation. It involves consultation and communication. The Australia- New Zealand Free Trade Agreement of 1965 had provisions for consultation. The 1963 US-Soviet Hot Line Agreement implied negotiations and consultations.

Good Offices and Mediation: Good offices and mediation involve a friendly third state which assists in bringing about an amicable solution to a dispute. The party offering good offices or mediation may be an individual or an international organisation or a state. The distinction between good offices and mediation is mostly one of degree. In good offices, a third party offers its services to bring the disputing parties together and to suggest the making of a settlement without actually participating in the negotiations or conducting an exhaustive inquiry. Mediation on the other hand involves the mediating party in a more active role which includes participating in negotiations and helping reach a peaceful solution. The mediator's suggestions have no binding character. For example, the former Soviet Union mediated a settlement between India and Pakistan at Tashkent in 1965.

The scope of good offices and mediation is limited. No specific procedures are laid down. The effort is to resolve the dispute through voluntary participation of conflicting nations and

negotiation. For instance, The Netherlands offered its good offices to resolve the Sri Lankan dispute with the LTTE.

Conciliation: Conciliation includes inquiry and mediation. An individual or a Commission works to bring about conciliation between disputing parties. The UN has resorted to this method to solve several disputes since 1945.

Conciliation includes a variety of methods by which a dispute is settled amicably with the help of other states or impartial bodies of inquiry or advisory committees. It usually involves proposals of settlement after investigation of facts and an effort to reconcile opposing viewpoints. Conciliation commissions have been provided for in the Hague Conventions of 1899 and 1907 for peaceful settlement of international disputes. Such commissions can be set up by special agreement between parties to a dispute. The commission would investigate and report on situations of fact. However, the investigation and report are not binding. The pact of Bogota of 1948 provides for conciliation commissions.

An inquiry is different from conciliation in the sense that it does not make any specific recommendations. However, the inquiry would established and clarify facts to a dispute, thereby helping adversaries to go in for a negotiated settlement. A commission of inquiry is very useful in cases of disputed boundaries.

Arbjtration: Arbitration involves the reference of a dispute to certain persons called arbitrators freely chosen by the parties, who make an award without being bound by any strict legal considerations. However, many disputes involving purely legal issues have been referred to arbitrators for settlement. Several treaties between states have included provisions for arbitration of disputes between them. Arbitration has been in vogue since antiquity. The Jay treaty of 1794 between US and Great Britain recognises arbitration in case of disputes between them. The Alabama Claims Award of 1872 between US and Great Britain has given great impetus to arbitration as a method of resolving disputes.

Arbitration has become a source of international legislation since disputes concerning interpretation or application of the provisions of conventions have been resolved through this method. The 1899 Hague Conference codified the law relating to arbitration and laid down the foundations of the Permanent Court of Arbitration. The Permanent Court is neither a court nor permanent. It includes a list of members appointed by States which are parties to the Hague conventions. It constitutes a panel of competent lawyers from whom arbitrators are appointed by states when the need arises. Each state appoints two arbitrators, one being its national and one from the panel. These arbitrators chose an umpire who presides over the tribunal. The award is given by majority vote. The tribunal will act on the basis of a compromise or arbitration agreement specifying the dispute, the time allowed for appointing the members, its jurisdiction, the procedure to be followed and the rules of law and principles according to which its decision to be given. The Permanent Court of Arbitration by itself has no specific jurisdiction.

Arbitration is essentially a procedure-involving consensus. States cannot be compelled to arbitrate against their wish. Their consent is necessary to determine the nature of even the tribunal that is appointed. Arbitration tribunals have resolved disputes involving legal issues as well as disputes based on questions of fact, requiring clarification. This procedure is

more appropriate for technical disputes and is less expensive. The advantage of arbitration lies in the fact that it does not involve publicity and parties can agree that the awards be not published.

11.4.2 Judicial Methods

These are basically two judicial procedures for conflict resolution: arbitration and adjudication. Solutions to a dispute are arrived at on the basis of principles of international law. The arbitration award and judicial decision in a dispute are binding on the conflicting parties.

Arbitration is done by an ad-hoc tribunal or by the Permanent Court of Arbitration, the Hague. Adjudication is sought from the International Court of Justice. The decision to opt for a judicial procedure is the prerogative of a State. It is voluntary: Chile and Argentina gave their border problems to a panel of Latin American judges in the 1980s.

Judicial methods are relatively effective since the disputants have voluntarily agreed to opt for the procedure thereby conveying their consent to abide by the award.

Judicial settlement is brought about by a properly constituted international judicial tribunal applying rules of international law. Today recourse to judicial settlement can be had through the International Court of Justice (ICJ) at the Hague. The ICJ is a successor to the Permanent Court of International Justice created after the First World War.

The ICJ is a permanently constituted tribunal governed by a statue and its own body of rules and procedure binding on all parties appealing to court. The proceedings of the court or public and the hearings and judgments are published. All the states wanting to refer cases for settlement can approach the ICJ.

International Court of Justice was established in 1945 and articles 92-96 of the charter refer to it. The Court is the principal organ of the United Nations and forms an integral part of the Charter. The court consists of 15 judges who are chosen from the list of nominees by the General Assembly and the Security Council, who elect them through an absolute majority. They represent principal legal systems of the world and the main forms of civilization.

The jurisdiction of the ICJ includes member states parties to the statue and other states who have been accorded recognition by Security Council. The court decides contentious cases referred to it and gives advisory opinions when sought. The court has compulsory jurisdiction where parties are bound by treaties or conventions in which they had agreed that the court should have jurisdiction over certain categories of disputes. The court has also jurisdiction under the 'optional clause' of article 36 of the statue wherein states accept obligation in all legal disputes concerning (a) the interpretation of a treaty (b) any question of international law (c) the existence of any fact constituting a breach of international obligation and (d) the extent of reparation to be made for a such breach of international obligation.

All disputes are decided by majority of the judges present. The court's decision has no binding force except between the parties and in respect of the particular case. Unless otherwise decided by the court, each party bears its own cost's of the case. The General

Assembly and the Security Council of the United Nation Organisation may request the advisory opinion of the court on legal questions. Such an opinion lacks the binding force of the judgment.

The Manilla declaration of 1982 on peaceful settlement of international disputes has been approved by the General Assembly. This may be considered as a code of rules on the subject and a manifesto of guidelines. Many of the principles contained in the United Nations Charter have been reaffirmed. The Manilla declaration emphasises the importance of direct negotiations, fact-finding, judicial settlement and the role of the Secretary General in bringing to the notice of the Security Council any matter which he considers as threatening the maintenance of international peace and security. In fact, members of the United Nations have undertaken to settle their disputes by peaceful means and to refrain from threats of war or the use of force by article 2 of the charter.

The UN Security Council can act in two kinds of disputes (a) disputes which may endanger international peace and security and (b) cases of threats to peace or acts of aggression. The Council can call up on the parties to dispute to settle the conflict through peaceful methods. It may even recommend appropriate procedures. It is empowered to recommend or decide what measures are to be taken to maintain or restore international peace and security and can call up on parties concerned to comply with certain provisional measures. It may also appoint a commission of inquiry or may authorise a reference to the International Court of Justice. Under articles 41-47 of the charter, the Security Council can give effect to its decisions not only by coercive measures like economic sanctions but also by the use of armed force against states which defy to be bound by these decisions.

11.4.3 Non-Violent and Coercive Procedures Short of War

In addition to the above methods these are several methods short of war that states resort to resolve conflict. There methods involve among others, recall of diplomats, expulsion of diplomats, special de marches; suspension of treaties and agreements, blockade, embargo, gunboat diplomacy or sabre rattling.

The threat of use of force can at times resolve even serious and potentially dangerous conflicts. The Cuban missile crisis of 1962 is a case in point. Sometimes, international groupings can help mitigate tendencies towards conflict. The non-aligned movement for instance, played such a role among the developing countries with some measure of success.

11.4.4 Citizen-Diplomacy

When at times states do not take the initiative to reduce conflict, ordinary citizens may attempt to raise the awareness of mutual advantages in the resolution of conflict. This is termed as Track II diplomacy or citizen diplomacy. This can lead to formal confidence building measures between rival states and truly lead to the resolution of conflict. Recent efforts by citizen groups in India and Pakistan have improved the relations between the two nations. One of the methods adopted by nations in such situations involves breaking the conflict into pieces or fractions and tackling each of them separately. An incremental reduction in conflict would result from such an approach.

11.5 SUMMARY

We have seen in this unit that in the context of inter-state conflicts, war is only one of the possible modes of policy to resolve the conflict, It is an extreme and violent form of conflict resolution. There are a range of other conflict resolution procedures which are non-violent in nature. These involve negotiation, conciliation, mediation, arbitration and adjudication. Categorising these as diplomatic and judicial methods of conflict resolution, we examined different procedures adopted under each of these methods. As we saw, when states adopt diplomatic methods, they agree to resolve the conflict either directly or with the help of an intermediary. Judicial methods in contrast invest the third party with power to decide the dispute. The solution reached by the third party in the latter method is binding on the parties to the dispute.

As we saw, there are still other methods of conflict resolution that have draw little attention of the students of conflict resolution. First, there are those that are coercive in nature but fall short of violent conflict. Then, there is yet another method in which the citizens play a direct role in reducing conflict.

11.6 EXERCISES

I) Distinguish good offices from mediation efforts and explain their role in the resolution of inter-state conflicts.

2) What are the features of arbitration as a method of conflict resolution?

3) Examine the composition and jurisdiction of the International Court of Justice.

4) What is citizen diplomacy? Can you think of some instances where citizen diplomacy has been used with some success?