Collective Enforcement of International Obligations

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1. Introduction

Collective enforcement is not a very clear notion. It may refer to the institutionalized enforcement through specific international organizations, especially the United Nations. The European Convention on Human Rights uses the term "collective enforcement" in the Preamble thereby describing the whole enforcement-system of that Convention[1]. Commission and Court have referred to this notion in interpreting Art.24, the article providing for inter-State applications[2]. However, collective enforcement should not be limited to that understanding in the context of international obligations. The question to what extent specific obligations of States may be enforced by collective action of other States has been one of the principal issues of international law and international politics in history. In fact, if one looks to the development of international law in the 19th century this phenomenon was quite familiar.

The idea that violations of international law may be of a sort which concerns the international community as a whole was well-known in the theory of public international law in the former century. The quotation of

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[1] "Being resolved, as the Governments of European countries which are likeminded and have a common heritage of political traditions, ideals, freedom and the rule of law, to take the first steps for the collective enforcement of certain of the Rights stated in the Universal Declaration, Have agreed as follows:".

[2] *Ireland* v. *UK*, European Court of Human Rights, Series A vol.25, p.90 *et seq.* (1978); *France and others* v. *Turkey*, European Commission of Human Rights, Decisions and Reports 35, pp.143, 169 = ZaöRV 44 (1984), pp.350, 359.

Ullmann, still to be found in von Liszt/Fleischmann, Das Völkerrecht (ed. of 1925), is quite telling: "Collective action by the leading powers is being seen as admissible (apart of cases where the balance of powers is being threatened) where the attitude of a State shows the refusal to accept the fundamental rules of the international order and public international law"[3]. Examples of collective action, especially at the end of the 19th century are of course abundant. To a great extent they concerned Turkey, the South American States, and China. They cannot be separated from the imperialist policy of the leading powers in those days[4].

When the International Court of Justice (ICJ) in 1970 expressly recognized in the *Barcelona Traction* Case that there are specific international obligations which are the "concern of all States" and where all States have a legal interest concerning their implementation it may well have been influenced by the adoption of the Vienna Convention on the Law of Treaties only one year earlier[5]. With the rules concerning *jus cogens* the Vienna Convention in fact had introduced a similar notion into the law of treaties. Although *jus cogens* and obligations *erga omnes* may not be identical it is clear that the two notions are to a certain extent interdependent and many rules of *jus cogens* may give rise to obligations *erga omnes*[6].

It can certainly not be seen as clearly established what the consequences of these developments are. It would seem, however, that a growing tendency and practice can be observed which shows that there are indeed obligations whose breach may justify reactions not only by the States immediately concerned but by others as well[7]. After discussing some of the problems arising under the collective enforcement systems within the United Nations we shall try to analyze some of these tendencies.

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[3] v. Liszt/Fleischmann, Völkerrecht (12th ed. 1925), p.442 note 7.

[4] See W. G. Grewe, Epochen der Völkerrechtsgeschichte (1984), p.616 *et seq.*

[5] ICJ Reports 1970, p.32; for the influence Judge Jessup may have had concerning the recognition of that notion see O. Schachter, Philip Jessup's life and ideas, AJIL 80 (1986), pp.878, 892.

[6] J. A. Frowein, Jus cogens, in: R. Bernhardt (ed.), Encyclopedia of Public International Law (EPIL), Instalment 7 (1984), pp.327, 328.

[7] J. A. Frowein, Die Verpflichtungen erga omnes im Völkerrecht und ihre Durchsetzung, in: Völkerrecht als Rechtsordnung – Internationale Gerichtsbarkeit – Menschenrechte, Festschrift für H. Mosler (Beiträge zum ausländischen öffentlichen Recht und Völkerrecht, vol.81) (1983), p.241 *et seq.*

2. *Universal Collective Enforcement, especially within the United Nations*

The enforcement machinery created by the United Nations Charter for the most important obligations of present day international law concerning the preservation of peace and security need not be discussed in detail here[8]. It is clear, however, that the machinery created by the Charter has proved to be only partially workable.

Where collective enforcement measures have been ordered by the Security Council as in the cases of Southern Rhodesia and South Africa member States of the United Nations are under a formal obligation to implement those collective enforcement measures. It is of course a well-known question to what extent States may object to decisions by the Security Council on the basis that they are *ultra vires* and unlawful. As the International Court of Justice has pointed out, there is no procedure for determining the validity of acts of the United Nations. Therefore, "each organ must, in the first place, determine its own jurisdiction"[9]. The Court has also stated that "a resolution of a properly constituted organ of the United Nations which is passed in accordance with that organ's rules of procedure, and is declared by its President to have been so passed, must be presumed to have been validly adopted"[10].

It is much less clear, however, to what extent decisions by United Nations organs which are not enforcement measures under the seventh chapter may nevertheless either be binding or have a justifying effect for collective measures of enforcement. The International Court of Justice took the position in the Namibia Advisory Opinion that Art.25 of the Charter, according to which decisions of the Security Council have to be carried out, does not only apply in relation to chapter VII. Rather, the Court is of the opinion that the language of a resolution should be carefully analyzed before a conclusion can be drawn as to its binding effect. The Court even seems to assume that Art.25 may have given special powers to the Security Council. The Court speaks of "the powers under Art.25"[11]. It is very doubtful, however, whether this position can be upheld. As Sir Gerald Fitzmaurice has pointed out in his dissenting opinion: "If, under the relevant chapter or article of the Charter, the decision is n o t binding, Article

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[8] See Eric S t e i n, *supra*, p.56 *et seq.*

[9] *Certain Expenses of the United Nations (Advisory Opinion)*, ICJ Reports 1962, pp.151, 168.

[10] *South West Africa/Namibia (Advisory Opinion)*, ICJ Reports 1971, pp.16, 22.

[11] *Loc. cit.*, ICJ Reports 1971, pp.16, 53.

25 cannot make it so. If the effect of that Article were automatically to make all decisions of the Security Council binding, than the words 'in accordance with the present Charter' would be quite superfluous"[12]. In practice, the Security Council does not act on the understanding that its decisions outside chapter VII are binding on the States concerned[13]. Indeed, as the wording of chapter VI clearly shows, non-binding recommendations are the general rule here.

The more important question in our context would seem to be whether non-binding recommendations may nevertheless be a justification under public international law to apply measures which would otherwise contradict rules of international law. Most, if not all the cases where States have voluntarily agreed to apply sanctions, for instance to South Africa, were of a nature that no rules of public international law had to be breached by the application of the sanctions themselves[14]. However, no reason exists why a Security Council decision or even a resolution by the General Assembly could not have a certain justifying effect, where the recommendation given is within the competence of the United Nations[15].

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[12] Ibid. p.293.

[13] Cf. also E. Jiménez de Aréchaga, United Nations Security Council, in: EPIL Instalment 5 (1983), pp.345, 347 *et seq.;* M. Krökel, Die Bindungswirkung von Resolutionen des Sicherheitsrates der Vereinten Nationen gegenüber Mitgliedstaaten (1977).

[14] This is generally the case where a partial economic boycott is being imposed without any special treaty relations existing. Of course, GATT may have to be taken into account. For voluntary economic sanctions against South Africa see International Legal Materials (ILM), 24 (1985), p.1464 *et seq.*

[15] The problem is certainly a difficult one. Frequently recommendations by the General Assembly are denied any justifying effect: W. A. Kewenig, Die Anwendung wirtschaftlicher Zwangsmaßnahmen im Völkerrecht, Berichte der Deutschen Gesellschaft für Völkerrecht, 22 (1982), p.31 under 9. E. U. Petersmann, Internationale Wirtschaftssanktionen als Problem des Völkerrechts und des Europarechts, Zeitschrift für vergleichende Rechtswissenschaft, 80 (1981), pp.1, 18 *et seq.* For a possible justifying effect Dicke, Die Intervention mit wirtschaftlichen Mitteln im Völkerrecht (1978), p.119 *et seq.*, and most recently A. Cassese, International Law in a Divided World (1986), p.244. The justification would probably lie in the recommendation because the view expressed by a competent UN organ (General Assembly or Security Council) must be deemed to have expressed a correct appreciation. It is not really a completely independent substantive justification but rather an important procedural presumption created by such a recommendation, cf. also, G. Dahm, Völkerrecht, vol.2 (1960), p.194. This is of considerable importance with reference to cases discussed under 4, *infra* p.73. Boycott measures as implemented against South Africa (cf. ILM 24 (1985), p.1464 *et seq.*) find their justification also in the condemnation of South Africa by UN organs.

In fact, it seems that the International Court of Justice accepted this effect of United Nations actions as a justification in the Namibia Advisory Opinion[16].

One may also mention rules concerning suspension for membership or even expulsion, existing in many universal international organizations, as examples for the collective enforcement of international obligations. However, practice under those provisions is very limited and would not seem to be of relevance for the main problems to be discussed here[17].

3. Collective Self-Defence and Related Problems

Self-defence is still to be regarded as the mechanism to protect the most fundamental rights of States as subjects of public international law. The United Nations Charter recognized for the first time that the implementation of this right to protect a State's existence may always be by collective measures[18]. This implies that an armed attack as the requirement for the applicability of measures of self-defence is being seen by the Charter as an attack on the most fundamental common value of the Charter system[19].

In the *Nicaragua* Case the International Court of Justice has made it clear that the right of collective self-defence may not be used to apply force where the State allegedly being attacked does not consider the situation as being one of armed attack[20]. This is an important clarification making it impossible that collective mechanisms will be used disregarding the interests of the State whose rights are at issue. The Court even went so far as to require that the State which regards itself as the victim of an armed attack should make a formal request permitting the exercise of collective self-defence[21].

More important and probably more difficult to accept is the Court's reasoning in the *Nicaragua* Case which concerns the possible reactions by

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[16] This may underlie the reasoning of the Court concerning Art.25.

[17] See J. A. Frowein, United Nations, in: EPIL Instalment 5 (1983), p.279.

[18] J. Delbrück, Collective Self-Defence, in: EPIL Instalment 3 (1982), p.114 *et seq.*

[19] The ICJ stated that the outlawing of acts of aggression gives rise to obligations *erga omnes*, ICJ Reports 1970, p.32 *(Barcelona Traction)*.

[20] Case concerning military and paramilitary activities in and against Nicaragua *(Nicaragua* v. *United States)*, ICJ Reports 1986, pp.14, 104.

[21] *Loc. cit.* p.105.

third States fo forcible interventions. Paragraph 211 of the judgment reads in part[22]:

> "The Court has recalled above (...) that for one State to use force against another, on the ground that that State has committed a wrongful act of force against a third State, is regarded as lawful, by way of exception, only when the wrongful act provoking the response was an armed attack. Thus the lawfulness of the use of force by a State in response to a wrongful act of which it has not itself been the victim is not admitted when this wrongful act is not an armed attack. In the view of the Court, under international law in force today – whether customary international law or that of the United Nations system – States do not have a right of 'collective' armed response to acts which do not constitute an 'armed attack'".

The Court has hereby introduced a distinction which will have to be analyzed in detail. The Court accepts that there may be use of force in violation of Art.2 para.4 of the Charter not amounting to an armed attack[23]. To react to this sort of use of force collective action does not seem to be possible, at least not action which may itself amount to the use of force. This would seem to be very difficult to justify if one starts from the premise that the prohibition of use of force under Art.2 para.4 of the Charter is one of the fundamental rules of the system, as the Court has earlier remarked[24]. Since it is clear that the State, against whom the forcible intervention takes place, may react by the use of force, one can hardly see how the Court could come to the conclusion that this State may not request the help of others[25]. The Court may have felt the need not to broaden the applicability of Art.51 by permitting collective armed defence

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22 *Loc. cit.* p.110.

23 Cf. also p.103 *et seq.*

24 P.99 *et seq.*

25 The Court expressly recognizes that the sending of armed bands under the conditions circumscribed by Art.3 *lit.* g. of the Definition of Aggression annexed to General Assembly resolution 3314 (XXIX) can be an armed attack (p.103). It denies, however, that mere support to rebels be an armed attack but accepts that it may be "use of force" (p.104). Judge Jennings strongly questions the underlying rationale according to which "forcible response to force" is forbidden, at least collectively (p.543 *et seq.*). Although Arts.2 para.4 and 51 of the Charter use different words to describe the acts concerned, it seems that – with the exception of so-called border incidents (cf. ICJ, *loc. cit.*, p.103) – the premeditated use of force must be seen as amounting to an armed attack in the sense of Art.51, or one must accept the right to use counter-force, also collectively. The alternative, not clearly recognized by the Court, it seems, amounts to depriving a weak victim of the use of force, not having the means to counteract, of all efficient means to defend itself with the help of others.

on a general scale in those cases[26]. However, it is very difficult to see how actions which may be qualified as being "use of force" in the sense of Art.2 para.4 should not be counteracted by "use of force", including, if necessary, force provided by third parties willing to help[27].

The judgment in the *Nicaragua* Case must be seen as raising a difficult issue concerning the collective guarantee against the use of force which does not amount to an armed attack.

4. Collective Reactions on the Basis of Obligations erga omnes

In the *Barcelona Traction* Case the International Court of Justice made the fundamental distinction "between the obligations of a State towards the international community as a whole, and those arising *vis-à-vis* another State in the field of diplomatic protection". The Court continues: "By their very nature the former are the concern of all States. In view of the importance of the rights involved, all States can be held to have a legal interest in their protection; they are obligations *erga omnes*"[28]. And then the Court explains which are the obligations which have this nature: "Such obligations derive, for example, in contemporary international law, from the out-lawing of acts of aggression, and of genocide as also from the principles and rules concerning the basic rights of the human person, including protection from slavery and racial discrimination". There follows the rather obscure sentence: "Some of the corresponding rights of protection have entered into the body of general international law (...); others are conferred by international instruments of a universal or quasi-universal character"[29].

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[26] This result can be reached by applying the rules of necessity and proportionality, correctly stressed by the Court as being applicable (p.103).

[27] It seems that in early writings the corresponding nature of Arts.2, 4 and 51 was frequently implied: Kelsen, Collective Security and Collective Self-Defence under the Charter of the United Nations, AJIL 42 (1948), pp.783, 784; K. Skubiszewski, Use of Force by States – Collective Security – Law of War and Neutrality, in: M. Sørensen (ed.), Manual of Public International Law (1968), p.767 (self-defence offers protection against illegal use of force). Where the difference of wording between Arts.2, 4 and 51 is used to submit a narrower meaning for Art.51, indirect aggression is nevertheless frequently seen as at least possibly amounting to an armed attack; D. Schindler/K. Hailbronner, Die Grenzen des völkerrechtlichen Gewaltverbots, in: Berichte der Deutschen Gesellschaft für Völkerrecht, 26 (1986), pp.11, 35 *et seq.*; 49, 76 *et seq.*; cf. also A. Randelzhofer, Use of Force, in: EPIL Instalment 4 (1982), pp.265, 271.

[28] ICJ Reports 1970, pp.3, 32.

[29] *Loc. cit.*

In para.91 of the judgment the Court adds that on the universal level, the instruments which embody human rights do not confer on States the capacity to protect the victims of infringements of such rights irrespective of their nationality. Accordingly it is on the regional level that a solution to this problem has to be sought. The Court expressly refers to the European Convention on Human Rights, which entitles each State which is a party to the Convention to lodge a complaint against any other contracting State for violation of the Convention, irrespective of the nationality of the victim[30].

Some of the wording to be found in the Court's reasoning in the *Tehran Hostages* Case can hardly be understood without taking into account the paragraphs in the *Barcelona Traction* judgment just quoted. The last sentences of the judgment in the *Tehran Hostages* Case of May 1980 read as follows[31]:

> "Therefore in recalling yet again the extreme importance of the principles of law which it is called upon to apply in the present case, the Court considers it to be its duty to draw the attention of the entire international community, of which Iran itself has been a member since time immemorial, to the irreparable harm that may be caused by events of the kind now before the Court. Such events cannot fail to undermine the edifice of law carefully constructed by mankind over a period of centuries, the maintenance of which is vital for the security and well-being of the complex international community of the present day, to which it is more essential than ever that the rules developed to ensure the ordered progress of relations between its members should be constantly and scrupulously respected".

One may feel that the international community is called upon to react if one reads these sentences. Without the Court expressly saying so, it seems unquestionable that the obligations violated in the *Hostages* Case are seen by the Court as obligations "towards the international community as a whole", therefore being "the concern of all States"[32].

It is probably no accident that the *Tehran Hostages* Case was decided by the Court after the foreign ministers of the European Community had decided on April 22, 1980 to take action and apply sanctions against Iran. On 18 May 1980 a formal decision was adopted according to which all contracts concluded after 4 November 1979, when the hostages were taken, should be suspended. The measures were implemented by the member States if only with some differences. It would seem to be espe-

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[30] *Loc. cit.* p.47; in that respect see Frowein, Die Verpflichtungen erga omnes im Völkerrecht und ihre Durchsetzung (note 7), p.245 *et seq.*

[31] ICJ Reports 1980, p.42 *et seq.*

[32] Frowein (note 7), p.244.

cially important what sort of reasoning was given by the EEC ministers. They referred to the threat for peace and security in the world created by the action and to the draft resolution submitted to the Security Council which was blocked by the Soviet veto[33]. It is rather clear that the EEC member States, although not directly affected by the taking of the hostages, were of the opinion that they could apply sanctions which would amount to the neglect of otherwise applicable rules of international law against Iran to collectively respond to the breach of international law[34]. The decisions taken by the Heads of State and Government of the seven States on the economic summits in 1978 and 1981 concerning international terrorism and aircraft-hijacking are of a similar nature[35], as are the economic sanctions applied by the EEC after the invasion of the Falklands/Malvinas by Argentina 1982 and the US measures after the invasion of Afghanistan 1979 and the threat of force towards Poland by the USSR in 1981[36].

Possible reactions by third States against grave breaches of international law have been discussed in the International Law Commission. What the special rapporteur Riphagen calls the third parameter of legal relations created by a breach of public international law is at issue here[37]. The violation of rules which are contained in the draft Art.19, called international crimes, may give rise to reactions by third States. However, it is not clear, how far they will be accepted in that context[38]. The definition of the

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[33] EC-Bulletin 1980 No.4, p.26 *et seq.*

[34] Frowein (note 7), p.251.

[35] Ibid. p.252.

[36] Cassese (note 15), p.244; Frowein (note 7), p.252 *et seq.*

[37] For a detailed discussion see R. Hofmann, Zur Unterscheidung Verbrechen und Delikt im Bereich der Staatenverantwortlichkeit, ZaöRV 45 (1985), pp.195, esp.223 *et seq.*

[38] The consequences of an international crime are laid down in Art.14 of the draft for Part 2 (A/CN.4/380), ZaöRV 45 (1985), pp.367, 370 *et seq.*:

"1. An international crime entails all the legal consequences of an internationally wrongful act and, in addition, such rights and obligations as are determined by the applicable rules accepted by the international community as a whole.

2. An international crime committed by a State entails an obligation for every other State:

(a) not to recognize as legal the situation created by such crime; and

(b) not to render aid or assistance to the State which has committed such crime in maintaining the situation created by such crime; and

(c) to join other States in affording mutual assistance in carrying out the obligations under subparagraphs (a) and (b).

3. Unless otherwise provided for by an applicable rule of general international law, the exercise of the rights arising under paragraph 1 of the present article and the performance of the obligations arising under paragraphs 1 and 2 of the present article are subject, *mutatis mutandis,* to the procedures embodied in the United Nations Charter with respect to the maintenance of international peace and security.

international crime as a breach by a State of an international obligation so essential for the protection of fundamental interests of the international community that its breach is recognized as a crime by that community as a whole, resembles the wording used by the International Court of Justice for the description of the obligations *erga omnes*. It is apparent from the discussions in the International Law Commission that a difficult balance has to be struck here[39]. On the one hand one must avoid the danger of creating new pretexts for intervention. On the other it must be precluded that even grave breaches may be committed without any reaction where the States concerned have no possibility to react[40].

A good example for the difficulties arising is the protection of human rights. To what extent may States use reprisals where others don't comply with their obligations under customary or treaty law relating to the protection of human rights? It could be of importance that the International Court of Justice in the *Barcelona Traction* Case made the distinction between basic rights of the human person and the international treaties concerning human rights[41]. One may have to keep in mind that the elementary human rights, namely right to life, freedom from torture and slavery are recognized as part of customary *jus cogens* in present day public international law. Here, a right to use reprisals against a State neglecting its obligations on a large scale and in an open and undisputable manner may well be accepted[42].

For the many obligations undertaken by States under international conventions protecting human rights this cannot be the rule. It is here where the Court's reference to the specific procedures created by the respective conventions should be taken seriously[43]. It would seem that the Court has repeated this view in the *Nicaragua* Case where it stated: "However, where human rights are protected by international conventions, that protection takes the form of such arrangements for monitoring or ensuring respect for

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4. Subject to Article 103 of the United Nations Charter, in the event of conflict between the obligations of a State under paragraphs 1, 2 and 3 of the present article and its rights and obligations under any other rule of international law, the obligations under the present article shall prevail".

39 Frowein (note 7), p.246 *et seq.*; Hofmann (note 37), p.198 *et seq.*

40 This problem was first dealt with rather extensively by W. Wengler, Völkerrecht, vol.1 (1964), p.579 *et seq.*; see also A. Verdross/B. Simma, Universelles Völkerrecht (3rd ed. 1984), p.908 *et seq.*

41 ICJ Reports 1970, pp.3, 32. Verdross/Simma, p.909.

42 Frowein (note 7), p.258 *et seq.*; P. Malanczuk, Countermeasures and Self-Defence, ZaöRV 43 (1983), pp.705, 744 *et seq.*

43 ICJ Reports 1970, p.47.

human rights as are provided for in the Conventions themselves"[44]. Any other rule would create the grave danger that discussions concerning the interpretation of human rights conventions which has to bridge different ideological approaches would be transferred into the law of reprisals[45]. Only where persistent and gross violations are concerned present day international law would seem to justify reaction by collective enforcement measures in the sense of reprisals[46].

5. Collective Reactions below Reprisals

Collective reactions may be efficient for the observance of public international law even where they remain below the level of formal reprisals. Non-recognition as well as other specific legal reactions can have an important effect. The special rapporteur Riphagen suggested as one of the consequences of an international crime the obligation for every other State "a) not to recognize as legal the situation created by such crime; and b) not to render aid or assistance to the State which has committed such crime in maintaining the situation created by such crime; and c) to join other States in affording mutual assistance in carrying out the obligations under subparagraphs a) and b)"[47]. The non-recognition of the consequences of the use of force in violation of the United Nations Charter would seem to be a general principle today[48].

A good example for other possible reactions is the operation of the Vienna Convention on the Law of Treaties concerning rules of *jus cogens*. According to Art.53 of the Vienna Convention a treaty is void, if, at the time of its conclusion, it conflicts with a norm of general international law which has the quality of *jus cogens*. If a new rule of that nature emerges, any existing treaty which is in conflict with that norm becomes void and terminates. Under Arts.65 and 66 of the Convention, however, specific procedures must be followed when a party to a treaty invokes its invalidity, also on the basis of a conflict with *jus cogens*. According to Art.69 only a treaty whose invalidity is established under the Convention is void.

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[44] ICJ Reports 1986, p.134.

[45] Frowein (note 7), p.256.

[46] For an interesting example H.-H. Lindemann, Die Auswirkungen der Menschenrechtsverletzungen in Surinam auf die Vertragsbeziehungen zwischen den Niederlanden und Surinam, ZaöRV 44 (1984), p.64 *et seq.*

[47] Cf. *supra* note 38, p.371.

[48] See Res.2625 (XXV) under 1: "No territorial acquisition resulting from the threat or use of force shall be recognized as legal".

Thus, before the procedure is terminated no party may treat the agreement as a nullity. This is the result of the compromise reached at Vienna between procedural provisions and the concept of absolute nullity favoured by the International Law Commission at first[49]. However, for third States it seems quite possible to argue that a treaty which conflicts with *jus cogens* is void. In this respect the Vienna Convention has introduced a rather sophisticated system: while parties to a treaty may not free themselves without using the established procedures, third States and international organizations may well take the matter up and argue that a treaty is in fact null and void[50].

The legal adviser of the United States State Department has argued that the treaty between Afghanistan and the Soviet Union of 1978 would be null and void if it did in fact permit the use of force in violation of Art.2 of the United Nations Charter[51]. The International Court of Justice has not hesitated to discuss whether or not exchanges of notes between Iceland on the one hand, the Federal Republic of Germany and the United Kingdom on the other hand could be null and void because arrived at under the threat or use of force[52].

Reactions of third States, especially collective reactions to treaties or other acts violating *jus cogens* or obligations *erga omnes* may be of great significance to implement international law. One would hope that the obligations undertaken by States to combat international terrorism may be seen in that perspective.

6. Concluding Remarks

Public international law of today is in a difficult state of development. There are regional systems which more and more resemble constitutional structures in our countries. This is certainly true for the European Community and the development under the European Convention on Human Rights. In both cases we have judicial organs protecting the rule of law and the judgments will be followed by the States concerned.

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[49] See S. Verosta, Die Vertragsrechtskonferenz der Vereinten Nationen 1968/69 und die Wiener Konvention über das Recht der Verträge, ZaöRV 29 (1969), pp.634, 689.

[50] Verosta, p.690; S. Rosenne, The Settlement of Treaty Disputes under the Vienna Convention of 1969, ZaöRV 31 (1971), pp.1, 35 note 97, 54 note 168; Frowein (note 7), p.261.

[51] AJIL 74 (1980), p.419.

[52] Fisheries Jurisdiction Cases *(United Kingdom of Great Britain and Northern Ireland* v. *Iceland)* and *(Federal Republic of Germany* v. *Iceland)*, ICJ Reports 1973, pp.1, 48.

Implementation of public international law is much more difficult where the important ideological differences existing on the globe become of importance. Nevertheless, even there, collective enforcement may not be insignificant for the future of public international law.