

REGIONALISM v. UNIVERSALISM

The debate surrounding regionalism and universalism in international organizations reflects the old dilemma between centralism and local governance at the domestic level. Local modes of problem solving are often seen to be more efficient, to be based on a better understanding of the specific circumstances and to be better placed to take account of local peculiarities, cultural or otherwise. Centralist solutions carry the expectation of a more homogenous, effective and uniform method of government. Within Nation States the compromise between the two opposing principles has found its expression in various models of federalism. The diversity and ongoing evolution of domestic solutions for the allocation of functions between central and local decision-makers is a clear sign that there is no simple answer to this basic antithesis.

The advent of international organizations with global pretensions has transposed the old dilemma to the international level and has added some new dimensions. The universal arena is often seen as being too weak and incoherent for effective action. This has led to calls for a shift to regional institutions. Conversely, regionalism is said to carry the danger of fragmentation to the international system. Moreover, regional superpowers tend to distort or even abuse regional processes prompting calls for the involvement of a global mechanism with more 'democratic' or egalitarian structures.

In the negotiations surrounding the drafting of the United Nations Charter, the struggle between universalist and regionalist sentiments played a prominent role. The Dumbarton Oaks proposal were strongly dominated by a universalist approach. At San Francisco important modifications in favour of regionalism were inserted at the insistence of the Latin American and Arab States. They include the right to individual and collective self-defense as enshrined in Article 51 and the primacy of dispute settlement through regional means (Articles 33(1) and 52(2) and (3)). On the other hand, enforcement action remained under the overriding jurisdiction of the Security Council (Articles 24, 25, 39-42, 53(1) and 54). Interestingly enough, regional activities in fields other than peace and security received scant attention and are not regulated in the Charter.

The Relationship between Universal and Regional Bodies

Cooperation between the United Nations and regional organizations has taken a variety of forms ranging from de facto collaboration to highly formalized and permanent relationships. The most obvious formal relationship is observer status for regional organizations with particular UN organs. The General Assembly has granted observer status to a number of regional organizations, including the Organization of

American States (OAS) in 1948, the League of Arab States in 1950, the Organization of African Unity (OAU) in 1965, the European Economic Community (EEC) in 1974 and the conference on Security and Cooperation in Europe (CSCE) in 1993.

The status of a regional agency under Chapter VIII has not always been clear. Some institutions such as the OAS and the CSCE has explicitly claimed this status. The General Assembly has recognized Chapter VIII status not only in respect of the OAS and the CSCE but also in respect of the League of Arab States and the OAU. The Security Council has actively cooperated also with a number of other regional organizations invoking Chapter VIII.

The General Assembly of the United Nations routinely singles out certain regional organizations for praise emphasizing their importance, expressing the wish for further cooperation and generally commending their activities. At the 47th and 48th Sessions, resolutions to this effect were adopted in respect of the OAU, the League of Arab States, the OAS, the CSCE, the Latin American Economic System, the Asian-African Legal Consultative Committee and the Southern African Development Community. In addition to these more visible forms of relationships, there are numerous other agreements, informal contacts, communications between Secretariats, mutual attendance at meetings and exchanges of documents.

The European Community's unprecedented assumption of functions, hitherto exercised by States, has led to new forms of formalized cooperation with global organizations. In the UN system proper, cooperation among the Members of the European Union is close but individual membership remains unaffected. By contrast, the Community has all but replaced its individual Members as participants in GATT. The other GATT Members have informally accepted this succession of a regional organization to the rights and duties of its members.

This development was taken to its logical conclusion in the relationship of the European Community to the Food and Agriculture Organization (FAO). In November 1991, the Community was formally admitted to membership of the global organization after FAO has amended its constitution. The individual EC Members retain their respective memberships in FAO but have to share the exercise of their rights with the regional organizations.

This brief survey of some types of formalized relationships between universal and regional institutions is nowhere near exhaustive. However, it gives an idea of the considerable diversity of arrangements for cooperation. This diversity is likely to increase further as interaction becomes more complex. Flexibility is an essential aspect of inter-agency interaction. However, it should also be borne in mind that the

haphazard and unsystematic agglomeration of various types of collaboration is not necessarily the most effective way to achieve results. Well-designed structures of cooperation require careful planning in order to avoid duplication, waste of resources, unnecessary competition among institutions and a bloated bureaucracy. Carefully drafted mandates for cooperation, whether in the legal form of agreements or otherwise, can add precision in the allocation of functions, clarify modes of communication and establish clear power structures, thereby facilitating swift and decisive action when the necessity arises. Unfortunately, international organizations, both on the universal and the regional levels, have been prone to react to specific situations belatedly, in a random fashion and without much forward planning. A clearer conception of future tasks and detailed plans for synergic action carry considerable potential for the improvement of cooperation between universal and regional institutions.

The Allocation of Functions Between Universal and Regional Institutions

Many, if not most, functions assigned to universal institutions are also exercised by regional ones. The question of an optimum division of labour to achieve best results is the most intractable problem in the relationship of universal and regional organizations. Very little can be said by way of generalization. Different questions require different answers and a solution that is effective for one area of international cooperation may not work in another. Therefore, I suggest dealing briefly with three functional areas separately, namely

- human rights,
- economic cooperation and
- peace and security.

HUMAN RIGHTS: The evolution of human rights has been among the most dramatic developments in International law in the past decades. This development has taken place on both the Universal and the regional levels. In addition to the pertinent UN instruments, bodies and procedures, Europe, America and Africa have devised important regional systems. The United Nations have taken a generally positive attitude towards regional systems supplementing their own efforts in this area and have at times explicitly welcomed them. The Vienna Declaration of the 1993 UN World Conference on Human Rights confirms that regional arrangements should reinforce Universal human rights standards and endorses efforts to strengthen these arrangements. It even advocates the establishment of regional and subregional arrangements where they do not already exist.

ECONOMIC COOPERATION: Economic cooperation has taken a variety of forms both on the universal and regional levels. In the framework of the United Nations, development of the world's poorer regions has been in the forefront of efforts. GATT has served as the primary vehicle for universal trade liberalization designed to achieve global growth. On the regional level too, wealth maximisation as well as a more equitable distribution of resources have been among the declared goals. This has led to efforts at regional integration but also, at times, to inter-regional cooperation. This phenomenon of inter-regionalism is complicating element in that one has to look not only at vertical relationships between the universal and regional levels but also at the horizontal relationship between regions.

PEACE AND SECURITY: The interplay of regional and universal institutions has received by far the most attention in the area of peace and security. The UN Charter refers to regionalism exclusively in this context. The basic concept of the Charter is to give priority to regional agencies or arrangements for the peaceful settlement of local disputes (Articles 33(1) and 52(2)) with the active encouragement and support of the Security Council (Article 52(3)). Yet, the powers of the Security Council are to remain unaffected (Article 52(4)). When it comes to enforcement action, the role of regional institutions is much more limited. They may be utilized by the Security Council to carry out enforcement action under its authority (Articles 48(2) and 53(1)). However, no enforcement action is to be taken by regional institutions without the authorization of the Security Council (Article 53(1)). In addition, regional arrangements or agencies have to keep the Security Council fully informed of any activities in the area of peace and security undertaken or merely contemplated by them (Article 54). Measures of self-defence under Article 51, whether they are taken individually or collectively, do not require prior authorization but are subject to immediate reporting to the Security Council.

THE PRACTICE

a) Peaceful Settlement

Practice in the relationship between regional and universal bodies in the area of peace and security has undergone significant developments over the fifty years of the United Nations' existence. In the field of peaceful settlement, no clear picture has emerged. Initial attempts to develop an 'exhaustion of regional remedies rule' have not been successful. The slogan 'try OAS/OAU first' has given way to the principle of free choice. Division of labour between the Security Council and regional institutions in the area of peaceful settlement appears to be a matter of practicability and discretion. Thus, in the context of the conflict in the former Yugoslavia, the Security Council has repeatedly encouraged and commended efforts by the European Community and

the CSCE to achieve a peaceful settlement while UN efforts were also under way.

b) Enforcement Action: The Struggle Over Competences

With regard to enforcement action, earlier stages were dominated by a dispute over competences between the United Nations and regional agencies, notably the OAS. The outcome of this process was a gradual erosion of Security Council supervision over action taken by the regional organization.

c) Regional Peace-keeping

Another element which has injected uncertainty into the relationship of the Security Council and regional organizations is the development of the concept of peace-keeping. Peace-keeping is not provided for expressly in the Charter. Therefore, there is no clear distribution of functions between the regional and universal levels.

d) The Security Council's Search for Regional Assistance

More recent developments are no longer characterized by a dispute over competences between the regional and universal levels but by a search on the part of the UN for help from regional arrangements. The Secretary-General's 1992 Agenda for Peace envisages a division of labour between the United Nations and regional organizations on the basis of flexibility and creativity. Regional organizations are to be entrusted with preventive diplomacy, peace-keeping, peace-making and post-conflict-peace-building.

LESSONS FOR THE FUTURE

a) Improved Coordination

A credible international system for the maintenance of peace and security capable of deterring deviant behaviour must rest on a clear assignment of functions, on an effective decision-making process and on binding commitments for the implementation of decisions, once they are taken. All of this is still very much lacking in the relationship between the UN and regional organizations in the field of peace and security.

b) Modes of Cooperation

Institutionalized cooperation between the UN and regional organizations could take a variety of forms depending on the needs of the Security Council, on the type of regional organization and on the resources available to it.

c) Effective Universal and Regional Structures

CONCLUSION

There is no inherent superiority in either regionalism or universalism. The admittedly difficult task is to apply the best principles of federalism to international law by trying to find the level best equipped to deal with a specific problem. Ultimately, the real antagonism is not between regionalism and universalism but between national sovereignty and international cooperation. Regional and universal efforts have rarely got into each other's way but have both been severely obstructed by nationalism and inward-looking politics of States. An optimum model involves universal, regional, possibly subregional, national and subnational elements of administration and governance. Only a constructive interaction of all these levels carries promise for the solution of the world's problems.