

The Use Of Force In Relation To Self-Determination In International Law

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1. Introduction

The reasons for using force in the international arena are numerous. But in this study, the focus will be only on the use of force in relation to self-determination in international law. Moreover the legality of assisting national liberation organizations and their place in international law will be dealt with.

The use of force may emerge in the form of using force by a national liberation movement or using force on behalf of a group of people struggling for independence or the use of force against these movements.

At the beginning of the 20th century, it was a self-evident truth that only States could engage in wars. Many other words were used to describe other forms of violence such as insurrection, civil unrest, piracy or rebellion. At most, there was 'civil war' where the objective modified the idea and the law which applied.

After the Second World War, opinions about what constitutes wars and which entities in the international arena may wage war have altered. The break up of colonial empires and the increasing consensus about the right of peoples to self-determination have directed some to conclude that the wars of national liberation are not outside the concern of international law, although they are seemingly intra-state war.

Until 1946, the people of the 20th century witnessed the worst horrors of the use of force in the history of mankind. Millions of people were killed in the First and Second World Wars. That is why, the United Nations which was set up with the memories of these two World Wars, was meant to create a peaceful world. To realize that, it tried to provide means of settling disputes peacefully. Nonetheless, the UN Charter did not prohibit the use of force as a whole. While UN Charter prohibits the use of force in Art. 2(3) and 2(4), Art. 51 allows member States to use force in self-defence when they are attacked. Also under Chapter VII, the collective use of force is possible. Article 2(4) and Article 2(7) are particularly important in our subject. Article 2(4) provides:

“All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations.”

And Article 2(7) states:

“Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state

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or shall require the Members to submit such matters to settlement under the present Charter, but this principle shall not prejudice the application of enforcement measures under Chapter.”

Like the personality issue in international law, authorities who could resort to force were strictly attributed to only States until the end of Second World War.

Thomas Aquinas, who wrote in *Summa Theologia* in the thirteen century about war stated the three basic elements for the presence of a just war: These three elements were (1) lawful authority, (2) just cause, (3) right intention.¹²² Some attributed the lawful authority to wage war only to an emperor or in some cases to the Pope. Some like William of Rennes widened it so as to include all feudal lords who have no superior inside the feudal hierarchy. Some like Pope Innocent IV also concluded that the right belongs to the authorities who have no superior to them.¹²³

As a result of the development of these arguments, the world at the end of the 19th century reached the conclusion that States were the only entities which had the exclusive right to wage war.¹²⁴ In this understanding, there was a clear distinction between international armed conflicts and non-international armed conflicts.¹²⁵ In this case, the conflicts which were between States were considered as international. If the other side of the conflict was not a state, the conflict was not regarded as an international one. This clear-cut division has lost its feature with the development of the concept of international right to self-determination and the popularity of 'internationalized' civil wars.¹²⁶

2. The States And The Authority to Resort To Force

a) *In International Armed Conflict*

The authority of States as the only power which could resort to force was confirmed in the Third Geneva Convention of 1949. Article 2 provided:

“In addition to the provision which shall be implemented in peace time, the present convention shall apply to all cases of declared war on any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.”¹²⁷

Although some commentators like Udo Wolf¹²⁸ interpreted the terms of 'even if the state of war is not recognized' so as to include wars of national liberation within the scope of the conventions, the initial aim of the convention was to apply the convention when states do not recognize the state of war between themselves. Also by stating High Contracting Parties,

¹²² Lawrence T. Farley, *Plebiscites and Sovereignty: The Crisis of Political Illegitimacy*, (London: Westview Press, 1986), p.141

¹²³ Frederich H. Russel, *The Just War in the Middle Ages*, (Cambridge: Cambridge Univ. Press, 1975) pp. 298-9

¹²⁴ Heather A. Wilson, *International Law and the Use of Force by National Liberation Movements*, (Oxford: Clarendon Press, 1988) p. 15

¹²⁵ *Ibid.*, p. 16

¹²⁶ *Ibid.*

¹²⁷ Article 2, para. 1. common to the Geneva Conventions of 1949

¹²⁸ Udo Wolf, 'Prisoner of War Status and the National Liberation Struggles', *International Review of Contemporary Law*, 1(1984)pp-31-6

the convention was referring to States only. Because only States could be High Contracting Parties.¹²⁹

Thus, historically, according to international law, States were the authorities which had the right to use force in an international war.

b) Legitimate Authority in Non-International Armed Conflicts

Until the adoption of the Geneva Conventions of 1949, the prevailing view was that internal conflicts were not subject to international regulation and the conduct of them were exclusively governed by the municipal law.¹³⁰ Although the acceptance of self-determination as a principle in the UN Charter and as a right in several UNGA resolutions like 1514(XV) generally make the issues¹³¹ related with it, international ones.¹³² Nonetheless, most of the armed struggles for the attainment of self-determination still had and have and will have many characteristics of civil wars.¹³³

Traditional international law is speechless mostly on the use of force inside the borders of States. That is, international law deemed these things a question within the domestic jurisdiction of each country.¹³⁴ Especially in the case of revolution, the silence of international law is apparent. That is, neither condemning nor condoning the revolution within an established state led some to think that there was a right to revolution. However the silence of the international law does not mean that international law recognizes the right to revolution as a part of international law or vice versa.¹³⁵

Nonetheless, since international law does not accept the result of internal violence, it is not completely speechless on the use of force inside established states. After the level of the conflict reaches a certain degree, international society recognizes some groups opposed to a government in civil conflict, as the holders of some rights and duties in international law. But that entirely depends on the military and political success of the rebellious movement and the degree of the resemblance of their success to that of a sovereign state. In a way, the outcome is more important than the purpose of the rebellion according to these rules. In reality, most of these rules were disregarded.¹³⁶

Since most of the non-international conflicts, among them the wars of national liberation, are regarded as civil wars, it is advisable to deal with the civil wars at that stage. Civil wars can be classified into three with three different legal outcomes stemming from each; rebellion, insurgency and belligerency.

Rebellion is an occasional challenge to the legitimate government and the rebels have no rights or duties in international law. A rebellion within the borders of a sovereign state is the exclusive concern of that state. Rebels may be punished under the domestic law and there

¹²⁹ Supra 3, p. 21

¹³⁰ Georges Abi-Saab, "None-International Armed Conflicts" in *International Dimensions of Humanitarian Law*, (London: Henry Dunant Institute(UNESCO) Martinus Nijhoff Publishers, 1988) p.217

¹³¹ Like the armed struggle for the attainment of it.

¹³² W. Ofuatay - Kodje, *The Principle of Self-Determination in International Law*, (New York: Nellen 1977) p. 113

¹³³ Supra 3, p.22

¹³⁴ Evan Luard, 'Civil Conflicts in Modern International Relations', in *The International Regulation of Civil Wars*, ed. Evan Luard (London: Thames and Hudson, 1972) p. 19

¹³⁵ Supra 3, p. 24

¹³⁶ Ibid., p. 23

is no requirement to treat them as prisoners of war.¹³⁷ Assistance to rebels constitutes unlawful intervention in the internal affairs of a State. That is why, it is banned under the traditional international law. But the legal government can be assisted as a result of lawlessness of rebels cause in international law.¹³⁸

Insurgency and belligerency constitute greater and continuous challenge to the government over a considerable period of time in a large scale and attract large members of people within the society.¹³⁹

Insurgency is in the middle between rebellion and belligerency. It is generally agreed that the presence of a 'factual relation', that is, acknowledgement of the existence of an internal war is necessary to recognize insurgency.¹⁴⁰ But there is no exact criteria for the intensity of the violence, the size of territory controlled etc.

According to Higgins recognition of insurgency imposes no duty of neutrality upon the recognizing state. And this is the only guidance that traditional international law provides.¹⁴¹ Wilson argues that if rebels are to be recognized as insurgents, they should have a substantial amount of control over territory and enough military might for the interests of foreign states to be affected. These are necessary for the emergence of the relationship between insurgents and outside States.¹⁴² But still, it is up to the third States whether to have relationship or not.

Belligerency is the ultimate one in the continuum from rebellion to insurgency. The criteria for it are more precise than insurgency. First, there should exist widespread armed conflict within a State. Second, a substantial part of the national territory should be occupied and administered by the rebels. Third, the hostilities must be carried out in accordance with the laws of war by the insurgents. Fourth, the situation in the country in question should affect the interests of a state so that the particular state should feel itself obliged to recognize the belligerency for practical reasons.¹⁴³

Despite these criteria, what constitutes 'a widespread armed conflict', 'a substantial part of national territory' and practical reasons are still the sources of the confusion for the recognition of belligerency. Nonetheless, the recognition of belligerency was still under the discretion of States in traditional international law.¹⁴⁴

The recognition of belligerency attributes similar rights and duties to those of states in international law.¹⁴⁵ But still, the belligerents do not have all the rights which states have.

In fact, traditional international law on the recognition of insurgency and belligerency is more theoretical. Because since the Second World War, no recognition of belligerency has taken place.¹⁴⁶

¹³⁷ Herbert W. Briggs(ed.), *The Law of Nations*, 2nd ed. (London: Stevens and Sons, 1953), p.791

¹³⁸ *Supra* 3, p. 24

¹³⁹ Richard A. Falk, 'Janus Tormented: The International Law of Internal War', in James N. Rosenau (ed.) *International Aspects of Civil Strife*, (Princeton University Press, 1964) p. 197

¹⁴⁰ Rosalyn Higgins, 'International Law and Civil Conflict', in *The International Regulation of Civil Wars*, p.170

¹⁴¹ *Ibid.*

¹⁴² *Supra* 3, p. 24

¹⁴³ *Supra* 19, pp. 170-1

¹⁴⁴ *Supra* 3, p.26

¹⁴⁵ *Ibid.*, pp. 26-7

¹⁴⁶ *Ibid.*, pp. 27-28

Customary international law still has the understanding that the use of force by groups opposed to an established government was neither a matter of condemnation nor condonation. That is, the use of force within a state against the established government was, at the first instant, a matter for municipal law.¹⁴⁷

There are a few relevant international conventions which appear to be regulating the use of force within states. Article 3 of 1949 Geneva Conventions can be counted among them. Article 3 gives limited humanitarian protection for 'persons taking no active part in hostilities' in the armed conflicts which do not have international character. Although Soviet Jurists suggested that Article 3 is the evidence of the 'recognition as subjects of international law not only of States, but also of nations struggling for their independence'¹⁴⁸ it in fact did not bring any means to change the status of the combatants within states whatever their causes and to prevent them being punished like domestic criminals under the established governments rules.¹⁴⁹

3. National Liberation Movements And The Authority To Resort To Force

The right of self-determination of 'people' has gained a legal status in international law in this century.

When the demands of self-determination were not met, the use of force for the attainment of it was seen one of the ways of realizing it. While many people advocate the use of only peaceful means to attain independence, some like Michael Walzer support the use of force as the only way out. He, in effect, confines any right of self-determination to those willing to define themselves as a group by the violent and bloody struggles they are willing to engage in¹⁵⁰: 'communities which do not fight are not entitled to self-determination, for, actually, they are not genuine communities at all'.¹⁵¹

National liberation movements are the organizations to fight for the right of self-determination on behalf of particular peoples. Whether that gives them the right to use force or not and if the use of force compromises the national liberation movements as well as states are subjects to be discussed in this part of the study.

The notion of sovereignty of states necessitates that the only entity which can legitimately use force, should be the States. Accepting the national liberation movements as other authorities which may use force for attaining the right of their peoples to self-determination, leads to undermine the sovereignty of States to a certain extent.

In fact the UN Charter supports vehemently the sovereignty of the established States. Article 2(4) of the Charter prohibits the threat or the use of force by all members against the territorial integrity or political independence of any state, or in any manner inconsistent with the purposes of the United Nations. Pomerance describes that article as the most frequently

¹⁴⁷ Ibid., p. 28

¹⁴⁸ George G. Ginsburg, "Wars of National Liberation" and the Modern Law of Nations: The Soviet Thesis', *Law and Contemporary Problems*, 29(1964) p.913

¹⁴⁹ Supra 3, p.28

¹⁵⁰ Neil MacCormick, "Is Nationalism Philosophically Credible?" in Willaim Twinning (ed) *Issues of Self-Determination*, (Aberdeen: Aberdeen University Press, 1991) p.8

¹⁵¹ Michael Walzer, *Just and Unjust Wars*,(New York, 1977) p.93 quoted by Juha Räikkä, "On National Self-Determination: Some Problems of Walzer's Definition" in *Issues of Self-Determination*, p.21

named candidate for the status of *Jus Cogens*.¹⁵² The strength of that article in international law is one of the main reasons of considerable resistance in the way of recognizing the right of national liberation movements to use force for the right of their peoples to self-determination.¹⁵³ Nonetheless there has always been some support to defend the use of force by national liberation movements in one of the very few situations in which the use of force is legitimate.¹⁵⁴ Moreover, until now, many states both accepted the use of force by these movements and in some situations actively supported the use of force politically and sometimes financially and militarily. For example; France supported Biafra's secession from Nigeria during the secession years. Both USSR and Cuba supported Eritrean independence movements until the Dergue came to power in Ethiopia. Saudi Arabia, Syria, Libya, Egypt, Sudan and a number of other Arab countries supported Eritrea's independence during the armed struggle years with varying degrees of support. The USA, Israel and Iran supported the Iraqi Kurdish independence movement in Northern Iraq until 1975 with almost all possible means.¹⁵⁵

Following the Gulf war, Iraqi Kurds revolted against the Iraqi regime. The uprising was suppressed by Iraqi government forces brutally. Hundreds of thousands of Kurds fled to Turkey and Iran. As a result, the allied coalition forces which consisted of American, British and French forces based in Turkey established and still maintain a buffer zone in Iraq¹⁵⁶ under the scheme of 'Provide Comfort'. Though the buffer zone was created for humanitarian reasons, it is also helping Iraqi Kurds to attain de facto independence from Iraq. Therefore, it can be seen as another example of assistance to national liberation movements.

Of course the understanding towards the use of force by national liberation movements was not easily reached. Between the First World War and the Second World War, extinguishing the rebellion in the colonial territories was an internal affair of the colonial administration.¹⁵⁷ After the Second World War, opinions on that issue started to change. New developments had taken place. The UN Charter contains a number of articles and charts about dependent people. As these attracted support, the idea of using force legitimately within international law for the attainment of that said peoples right to self-determination by national liberation movements also attracted support. Some argued that since the continuance of colonialism is contrary to the right to self-determination, attaining that right by way of using force, if other means fail, should not be condemned.¹⁵⁸

A) United Nations Resolutions

Since the United Nations has dedicated itself to the peace after the lessons of the two world wars, the UN Charter allowed the Member States in Article 51 to use force only in cases of self-defence in return for armed attack (as it was noted earlier). There is no exception to this rule in the UN Charter. That is, there is no article explicitly or implicitly allowing self-

¹⁵² Michla Pomerance, *Self-Determination in Law and Practice*, (London: Mantinus Nijhoff Publishers, 1982) p.48

¹⁵³ *Supra* 3, pp. 91-2

¹⁵⁴ *Ibid.*, p. 92

¹⁵⁵ Alexis Heraclides, *The Self-Determination of Minorities in International Politics*, (London: Frank Cass, 1991) pp. 250-63

¹⁵⁶ Morton H. Halperin, David J. Scheffer and Patricia L. Small, *Self-Determination In the New World Order*, (Washington: Carnegie Endowment for International Peace, 1992) p.146

¹⁵⁷ *Supra* 3, p. 93

¹⁵⁸ *Ibid.*, p. 94

determination units to secure their rights by way of using force. Moreover, the Declaration on Colonialism, Resolution 1514(XV), did not recognize the use of force for the purpose of realising the right to self-determination.¹⁵⁹ But, at the same time, the Resolution 1514(XV) declared that 'all armed action or repressive measures of all kinds directed against dependent peoples shall cease'. It, in a way, prohibited the use of force against the wishes of self-determination of the colonial peoples.

When India invaded the Portuguese colonial territories - Goa, Damao and Diu which were situated at the Indian Sub-continent in December 1961, India defended her action and alleged the Declaration on Colonialism provided firm grounds for the Indian initiative to end a colonial rule.¹⁶⁰ In the Security Council debates on Goa issue in 1961, the United States Ambassador to UN pointed out that

“Resolution 1514(XV) does not authorize the use of force for its implementation. It does not and it should not and it can not, under the Charter... Resolution 1514(XV) does not and can not overrule the Charter injunctions against the use of armed force.”¹⁶¹

A Security Council resolution deploring the Indian action could not be passed as a result of the Soviet veto, although the majority of the Security Council supported the resolution. In those years, the Soviet Block and Non-aligned Countries were supporting the right of colonial people to be emancipated from the colonial rule by using every means even by using force, if the administering State refused them the right of self-determination.

That sentiment first found a ground in a General Assembly resolution in 1965. The Assembly accepted Resolution 2105(XX)that

“Recognizes the legitimacy of the struggle by the peoples under colonial rule to exercise their right to self-determination and independence and invites all States to provide material and moral assistance to the national liberation movements in colonial territories.”¹⁶²

The ambiguous term 'struggle' in this resolution was interpreted by some States as the armed struggle; but, especially Western States did not interpret that resolution sanctioning armed struggle.

At the meetings of the Special Committee on Principles of International Law in 1966, the Afro-Asian States, led by Algeria, proposed the acceptance of an interpretation that exclude the wars of national liberation from the general prohibition of the Article 2(4) of the UN Charter.¹⁶³ They would base the national liberation movements struggle on the self-defence clause. But Western States objected to this interpretation claiming that the self-defence right exclusively belonged to States and the so-called right of peoples to self-defence against colonial domination had no ground in either international law or in the UN Charter.¹⁶⁴ As a result, the Special Committee could not reach an agreement.

¹⁵⁹ Supra 31, p.48

¹⁶⁰ Quincy Right, 'The Goa Incident', *AJIL*, vol. 56(1962) pp. 617-632

¹⁶¹ SCOR, 16 th Yr., 988 th Mtg., 18 December 1961, para. 93 quoted in Pomerance p. 49

¹⁶² UNGA Res. 2105(XX), adopted 20 Dec. 1965, 74:6:27

¹⁶³ Supra 3, p.95

¹⁶⁴ Arnold Fraleigh, 'The Algerian Devolution as a Case Study in International Law' in *The International Law of Civil War*, ed. Richard A. Falk,(London: Johns Hopkins Univ. Press, 1971), pp. 190-1

The argument on the legitimacy of the struggle of national liberation movements by arms did not confine to UNGA Resolutions. The Security Council, too dealt with the matter and it too accepted that term in relation to the situation in Southern Rhodesia. The Security Council Resolution 232(1966) stated 'The inalienable right of people of Southern Rhodesia to freedom and independence in accordance with the Declaration [on Colonialism] and recognis[ed] the legitimacy of their struggle to secure the enjoyment of their rights'¹⁶⁵ Even in this resolution whether the Security Council was allowing the struggles so as to include the armed ones was not clear. Despite the efforts of Third World Countries to change the interpretation of struggle with armed ones. they were not successful.

In 1970, the General Assembly accepted Resolution 2708(XXV). In this Resolution, the Assembly was repeating

“Its recognition of the legitimacy of the struggle of colonial peoples and peoples under alien domination to exercise their right to self-determination and independence by all means at their disposal.”¹⁶⁶

By accepting the term "by all means at their disposal", the General Assembly was sanctioning the use of force of national liberation movements without stating it explicitly. Of course most of the Western States again abstained or voted against this resolution. In fact Western States were not against the right of peoples to self-determination. But they were against the use of force for anything other than in self-defence by States against armed attack.¹⁶⁷ They were not willing to expand the right to use force so as to include the national liberation organizations.

The Declaration on the Principles of International Law known also as the Declaration on Friendly Relations was accepted unanimously in General Assembly on 24 October 1970. The issue of the struggles of national liberation movements was addressed in this Resolution.

The Declaration became the first document recognising unanimously a right to self-determination. States also recognized that a colony or a non-self-governing territory had status separate and distinct from the territory of the State administering it. Declaration also stated

“Every State has the duty to refrain from any forcible action which deprives people referred to above in the elaboration of the present principle of their right to self-determination and freedom and independence. In their actions against, and resistance to, such forcible action in pursuit of exercise of their right to self-determination, such peoples are entitled to seek and to receive support in accordance with the purposes and principles of the Charter.”

In the view of Asiborn Eide¹⁶⁸ and Georges Abi-Saab,¹⁶⁹ this paragraph confirms that national liberation movements have the authority to use force in international law. Eide also

¹⁶⁵ SC Res. 232(1966), 16 Dec.1966, 11:0:4

¹⁶⁶ UNGA Res. 2708(XXV), 14 Dec. 1970, 73:5:22

¹⁶⁷ Supra 3, p.97

¹⁶⁸ Asiborn Eide, 'Sovereign Equality Versus the Global Military Structure: Two Competing Approaches to World Order; in *New Humanitarian Law of Armed Conflict*, vol. i. ed. Antonio Cassese, (Naples: Editoriale Scientifica, 1979)p. 25

¹⁶⁹ Georges Abi-Saab, 'Wars of National Liberation and the Laws of War', *Annales d'etues internationales*, 3 (1972) p. 101-3

maintains that the Resolution makes it clearer than before that armed struggle for self-determination is legitimate.

Abi-Saab, by looking at the unanimity of the Declaration, was alleging that even Western States who were against justification of the use of force for the right of self-determination, changed their stance. But as Wilson points out one of the reasons that the Resolution was passed unanimously was the existence of the wide range of possible interpretations of the controversial provisions of the Resolution.

In fact, the Declaration clause stated above, does not permit peoples to use force to secure their right of self-determination. They can get support only in the case of force used against them, not when their right to self-determination is denied.

Second, the resolution does not refer to 'resistance' as 'armed resistance'. Resistance should not necessarily be in the 'armed' form. There are other kinds of resistance such as civil disobedience, strikes or political opposition which can be effectively manipulated.

Third, the final part of that clause stipulates that they can receive support in accordance with the purposes and principles of the Charter. Since the debate revolves around what the purposes and principles do and do not allow, the last paragraph of the clause does not disperse the controversy.

Despite these objections to the use of force by peoples to secure their right of self-determination, that clause was perceived as a political success by those who argue that wars of national liberation are legitimate. The wording of the Declaration is ignored frequently.

Finally, that issue was clearly stated in Resolution 3070(XXVIII) in 1973. It reaffirmed 'the legitimacy of the peoples struggle for liberation from colonial and foreign domination and alien subjugation by all available means including armed struggle'.¹⁷⁰ The Resolution was accepted by the General Assembly by 97 votes to 5 with 28 abstentions. As Wilson remarks, this voting pattern showed that not all the States construed the Declaration on Principles of International Law as allowing peoples to use force for liberation.

The Sixth Committee of the United Nations which considers legal issues brought a more important step to the issue by passing a draft sponsored by several Third World and Eastern Block States. That draft was adopted by the General Assembly as Resolution 3103(XXVIII), Basic Principles of the Legal Status of Combatants Struggling Against Colonial and Alien Domination and Racist Regimes.¹⁷¹ The Resolution solemnly proclaims the following basic principles of the legal status of the combatants struggling against colonial and alien domination and racist regimes without prejudice to their elaboration in the future within the framework of the development of international law applying to the protection of human rights in armed conflicts;

1. The struggle of peoples under colonial and alien domination and racist regimes for the implementation of their right to self-determination and independence is legitimate and in full accordance with the principles of international law.

The intention of the Resolution was not only to grant legitimate combatant status to the members of liberation movements according to the Geneva Convention, but also to secure

¹⁷⁰ UNGA Res. 3070(XXVIII), 30 Nov. 1973, 97:5:28

¹⁷¹ UNGA Res. 3103(XXVIII), 12 Dec. 1973, 83:13:19

their right to self-determination to allow them to use force in accordance with international law.¹⁷²

In the light of the approval and disapproval rate of States regarding such kind of resolutions, it can be concluded that while a significant minority of States in General Assembly were opposed to the widening of the authority to use force beyond sovereign States, the bulk of States were supporting the opinion that 'peoples who were not yet members of an independent state had the authority to use force to secure their right to self-determination'.¹⁷³

This issue was tackled again in 1974 when the Special Committee on the Question of Defining Aggression had finalised its proposal after a debate within the United Nations.¹⁷⁴ The proposal was adopted without a vote by the General Assembly. The adoption was by consensus both in the Committee and in the General Assembly.¹⁷⁵

Article 3(g) of the Definition of Aggression is related to our subject matter. It enumerates acts of aggression and counts the following as aggression.

“(g) The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the act listed above, or its substantial involvement therein.”

If that Article is assessed solely, it can be easily deduced that, the Article is to the detriment of liberation movements because it prohibits assistance across State borders. Besides, it is deemed as aggression. As in most of the national liberation movements survival depended on outside help, that Article would mean a great blow to the struggle of national liberation movements. But fortunately for national liberation movements, the last Article saved that danger. Article 7 states

“Nothing in this Definition, and in particular Article 3, could in any way prejudice the right of self-determination, freedom and independence, as derived from the Charter, of peoples forcibly deprived of that right and referred to in the Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, particularly peoples under colonial and racist regimes or other forms of alien domination; nor the right of those peoples to struggle to that end to seek and receive support in accordance with the principles of the Charter and in conformity with the above mentioned Declaration.”¹⁷⁶

In fact the definition also did not alter much the previous position of the national liberation movements in international law. Article 7 was a derogation from not only Article 3(g) but also the whole of Art. 3. Third World Countries assessed that as a victory for them. For them, 'struggle' meant 'armed struggle', although the mention of the use of force was deliberately avoided.¹⁷⁷ But the Resolution was very open to wide interpretation. Thus it got

¹⁷² Supra 3, p. 101

¹⁷³ Ibid.

¹⁷⁴ D. J. Harris, *Cases and Materials on International Law*, 4th Ed. (London: Sweet and Maxwell, 1991) pp. 877-9

¹⁷⁵ Ibid.

¹⁷⁶ UNGA Res. 3314(XXIV), 14 Dec. 1974, consensus

¹⁷⁷ Supra 31, p. 58

the approval of even those States who were opposed to the legitimisation of the use of force by national liberation movements.¹⁷⁸

Lastly, the UN General Assembly passed another resolution approving 'the legitimacy of the struggle of peoples for independence, territorial integrity, national unity and liberation from colonial and foreign domination and foreign occupation by all available means, including armed struggle.'¹⁷⁹ The Resolution was adopted 120:17:6. This voting behaviour showed that there was still a strong number of States opposing the attainment of independence by national liberation movements via the use of force.

While passing these resolutions, the aim of the States were to decolonize trust or non-self-governing territories. None of these resolutions were passed as a result of an event which took place in an established State. They were most of the time meant for the people living under colonial rule of Portugal, Spain, South Africa, Rhodesia or France.

Given the present situation, that is, after achievement of independence by most of the colonial territories and the collapse of the Cold War understanding, it seems very difficult to reiterate the wording of previous resolutions which accepted the use of force for independence.

The reason for this could be the increasing likelihood of the presence of such movements in the non-colonial States. After the collapse of cohesive ideologies, most States realised that they are more vulnerable to break-up than the pre-colonial States. For example; two pre-Cold War period advocates of the use of force by national liberation movements disintegrated as a result of the manipulation of the right to self-determination. Two of these States are ex-Soviet Union and ex-Yugoslavia. Although the main States are still alive, that is, the Russian Federation and so-called Yugoslavia consisted of Serbia and Montenegro, they are still as vulnerable as their predecessors to disintegration. For a year, the world community is also witnessing the break-up new Yugoslavia with the war in Kosovo. In Russia, there are 88 regions and Republics of which 22 consist of non-Russian ethnic minorities. And in the case of Serbia; Kosova Albanians, Sancak Muslims and Voyvodina Hungarians are still there as potential self-determination claimants. Moreover, as the holders of the privileges of sovereignty, most of the States in the UN organs will not desire to commit suicide by allowing the national liberation movements to use force against themselves.

One other issue is the support of national liberation movements. In the Cold War era, those organizations which adopted a side in the equilibrium of Communist and Western States, most of the time guaranteed the support of the side with which they affiliated. Given the collapse of this system, most of the Western States and ex-Socialist States do not want to spend their money on these movements because supporting them will not bring any good to them.

As a result, it can be argued that, the accumulation of these Resolutions reflect the very liberal approach of the past which is very difficult to repeat as there is no significant non-self-governing territory and trust territory left now. For example, when Namibia became independent in 1990, the last trusteeship of UN came to an end in Africa.¹⁸⁰

¹⁷⁸ Supra 3, p.103

¹⁷⁹ UNGA Res. 37/43, 3 Dec. 1982, 120:17:6

¹⁸⁰ Ali A. Mazrui, "The Bondage of Boundaries", *The Economist*, September 11th-17th 1993, p.34

B. The Practice of States

Many states even those who did not support at any time the extension of the right to use force to liberation organizations, one way or another recognized and/or supported some of these movements with different motives such as protecting their nationals, their economic interests etc. Of course having a relationship between a State and a national liberation organisation does not give to that particular movement a right to use force to reach independence. But having a relationship of a kind meant for most of these organizations the approval of their acts at least implicitly.

Recognition is very important for national liberation movements. Because, 'recognition' of their existence may have some part to play in their emergence as fully operational subjects in the international arena and more importantly in the opening of bilateral relationships¹⁸¹ between the recognizing States and recognized movements.

Although in the case of civil war, States may recognize, in theory, rebellion, insurgency and belligerency with their legal consequences emanating from the State recognition, in practice there has been no recognition of insurgency or belligerency since the Second World War. In the case of national liberation movements, States have two main tendencies in recognition since the end of Second World War. They either prematurely recognize governments which have been established by liberation movements who represent a people considered to have a right to self-determination or recognize the liberation movement itself as distinct from a government formed by it, as a representative or the representative of its people.¹⁸²

In the case of premature recognition, the recognized government may in fact lack some of criteria needed for the establishment of a State which were specified in Montevideo Convention on Rights and Duties of States 1933. Unlike the premature recognition, the legal consequences of recognition of national liberation movements are not clear.

In the case of premature recognition, the practice of States since 1945 regarding the secession of territories claiming to have a right of self-determination has not been wholly consistent.

The East Indies which is now Indonesia was a Dutch Colony until she was occupied by Japanese forces in the Second World War. After the collapse of the Japanese administration, Indonesian nationalists declared their independence in August 1945. The Netherlands did not recognize the nationalist government at first. But later the Netherlands, whose colonial possession Indonesia had hitherto been, only recognized the Government of Java, Madura and Sumatra while considering herself as the *de jure* sovereign of the territory; in return the Republican government agreed to co-operate 'in the rapid formation of a sovereign democratic state on a federal basis to be called the United States of Indonesia'.¹⁸³ There would be a period of transition. However, there were disagreements between the Netherlands administration and Indonesians about the terms of agreement. The Netherlands was claiming that she still had *de jure* authority for the whole area and she was objecting the

¹⁸¹ Martin Dixon, *Textbook on International Law*, (London: Blackstone, 1990) p.70

¹⁸² *Supra* 3, p. 104

¹⁸³ *Ibid.*, p. 106

recognition of Indonesian government. In the meantime, Indonesia was recognized by Egypt, Syria, Iran, the United States, Britain, Australia, and China.¹⁸⁴

The Dutch government resorted to force in July 1947 to bring back the previous *status quo*. That even worsened the situation. The situation was brought to the UN despite the Dutch claims of domestic jurisdiction, the Security Council discussed the matter in July and August of 1947. Frustrated with the discussion of the matter in the Security Council, the Netherlands made her second military attack on what was left of the Republic. Although in the first instance, the military attack seemed successful, it could not stop the resistance of Indonesian guerrilla movement fighting for the Republic. The failure of the Dutch government's last military attempt and the strong condemnation of it by the Security Council resulted in the resumption of talks between the nationalists and the Dutch Government. As a result, the United States of Indonesia was established on 27 December 1949.

By getting independence through the use of armed struggle, Indonesia constituted the first example of its kind after the Second World War. Crawford describes Indonesian independence as secession in furtherance of self-determination.¹⁸⁵ The most important thing related to our subject here is that Indonesia enjoyed a certain status in International law before the formal grant of independence to her on 27 Dec. 1949. As stated above, she was already recognized by a number of countries prior to her recognition, although she was probably not a fully independent State as Crawford points out.¹⁸⁶ Similar cases are Algeria, Guinea-Bissau, Western Sahara and Palestine.

FLN, (Front de Liberation Nationale Algerienne) Algerian Liberation Front, started its armed campaign in 1954. On 19 September 1958, it established the provisional Government of the Algerian Republic (GPRA) in Tunis. 29 States recognized the new government.¹⁸⁷ In fact, it was a premature recognition because neither the traditional standards of effective government were available, nor were the territorial ones. This premature recognition was a very significant step forward for the recognition of movements fighting for national liberation. Wilson argues that the premature recognition of a government is more consistent with the traditional international law than the recognition of liberation movements. Moreover the premature recognition of Algeria was a sign of changing attitudes of States. Instead of recognizing belligerency, the States were starting to recognize governments in the presence of strong self-determination claims like in the case of Algeria, even though these governments did not have effective control over the territory.¹⁸⁸

Guinea-Bissau constitutes another case of premature recognition. The General Assembly recognized the State of Guinea-Bissau on November 1973, when the Guinea-Bissau liberation movement PAIGC was only in control of two-thirds of the territory according to the report of the UN mission sent to there.¹⁸⁹ Moreover the General Assembly went as far as to condemn Portugal, the administering power of the territory, for repeated acts of aggression against Guinea-Bissau and for illegal occupation of portions of its territory after having affirmed the terms of Article 2(4) of the Charter.¹⁹⁰ The Guinea-Bissau case is more interesting than Algeria in the sense that Algeria was prematurely recognized by States but

¹⁸⁴ H. W. Briggs(ed.), *The Law of Nations*, 2nd ed.(London: Stevens and Sons, 1953), p.73

¹⁸⁵ James Crawford, *The Creation of States in International Law*,(Oxford: Clarendon Press, 1979) p. 248

¹⁸⁶ Ibid.

¹⁸⁷ Supra 3, p.110

¹⁸⁸ Ibid., p. 111

¹⁸⁹ Malcolm Shaw, *Title to Territory in Africa*, (Oxford: Clarendon Press, 1986) pp. 153-5

¹⁹⁰ UNGA Res. 3061(XXVIII), 2 Nov. 1973, 93:7:30

accepted to UN only after it officially reached an agreement with France. On the other hand, Guinea-Bissau was accepted into the UN without the consent of its administering state Portugal and without having effective control over the territory. The lack of total effective control in the territory prompted severe criticism from Western Governments by claiming that the criteria for statehood were not met. That is why, 30 states abstained from recognizing Guinea-Bissau in the first instance.

The international responses to such events were the signs of changing international law on the use of force in wars of national liberation. While the established governments were favoured in internal wars, the international community began to condemn the use of force by the colonial powers without agreeing expressly the use of force by national liberation movements starting in the 1960's.

On many occasions, the General Assembly resolutions had encouraged or enjoined assistance, civil or military, to local insurgents either in general terms or in relation to specific territories. Such as, the General Assembly accepted Resolution 2795(XXVI) in 1971 on the Question of territories under Portuguese Administration. The Resolution was seen as sanctioning in a way the illegal intervention against the established government in civil wars, which was totally unacceptable under the traditional rules of neutrality in civil wars.¹⁹¹

Palestine can be added to the list of States, which were prematurely recognized. At the 19th session of the Palestine National Council in Algiers from 12-15 November 1988, the independent State of Palestine was proclaimed, with Jerusalem as its capital.¹⁹² All Arab States, except Syria, a number of non-aligned States and China immediately recognized the Palestinian State. The USSR recognized the proclamation of the State but not the State itself.

Indeed, by prematurely recognizing a government, it was the view of most of the Socialist and Third World Countries to render a 'people' that had the right to self-determination, a separate entity in international law with the authority to use force analogous to that of sovereign States.¹⁹³ On the other hand, Western States have opposed this opinion on the grounds that the right of self-determination must be pursued by peaceful means and the recognition is accorded to governments only if the latter establishes effective control over the population and territory which they purport to represent.¹⁹⁴

It is thought that all of these should be assessed in the light of decolonization policies. Neither Socialist and Third World States nor Western States had been eager to accept secessions from established States until 1990. After that year, the collapse of cohesive ideologies may have a radicalising effect on this view especially on the part of ex-socialist and Third World States.

The other State practice related to national liberation movements was to recognize them as representatives of their peoples and to include them as observers, associate members, and members of international organizations. Indeed, liberation movements such as the PLO and SWAPO were invited and participated in the work of various international organizations. The UN General Assembly, more specifically, granted observer status to both of the above-mentioned liberation movements in 1974¹⁹⁵ and 1976¹⁹⁶ respectively. Later, two liberation

¹⁹¹ Supra 64, p. 113

¹⁹² Z. Lockman & J. Beinun(eds.), *Intifada*, (Boston: South End Press, 1989) pp. 395-9

¹⁹³ Supra 3, pp. 116-7

¹⁹⁴ Supra 53, pp. 142-8

¹⁹⁵ UNGA Res. 3210(XXIX), 14 Oct. 1974, 105:4:20

organisation: the Panafricanist Congress of Azania (PAC) and the African National Congress (ANC) which were recognized by the OAU were given observer status in the 'relevant work' of the main committees and subsidiary organs of the UN.

The extension of observer status at the UN to national liberation movements recognized by the OAU was seen as a political victory in the way to internationalise wars of national liberation. It is also suggested that national liberation movements started to have some limited rights and duties in international law after the extension of observer status to them by the UNGA resolutions.

Moreover, several national liberation movements participated in the drafting and signed the final act of the two Additional Protocols (1977) to the Geneva Conventions of 1949.¹⁹⁷

With regard to the observer status granted to some of those entities, it is rightly pointed out that it does not amount to formal representation of the territory which rests with the Administering Power. Equally the participation of some national liberation movements in the drafting and signing of the 1977 Protocols must not be taken as recognition of those movements as representatives of sovereign States. The International Committee of the Red Cross has never cited them amongst the parties to the said protocols in its Annual Reports.¹⁹⁸

Nonetheless the extension of observer status to recognized national liberation movements was deemed as a political victory for the movements involved and for their supporters. Until 1990's, the tactics of these limited international legal persons, including the use of force, had never been condemned by the UN or any other international organisation and they had often been praised for their struggle. But things appear to be altering considerably recently.

For instance, UNITA was among the national liberation movements recognized by the OAU in relation to Angola in Africa. The other two liberation movements recognized by the OAU in Angola were MPLA and FNLA. Angola, like Mozambique, went directly from 15 years of revolutionary war against Portuguese colonialism (1961-1975), to a civil and tribal war that was suspended in the cease-fire of 1991.¹⁹⁹ The cease-fire in the long Angolan civil war was signed on 31 May 1991, in Lisbon. The agreement provided that free elections would be held in 1992 which would decide the country's future.²⁰⁰ The UN supervised general elections were held as proposed and UNITA lost them. As a result it did not accept the outcome alleging that there was corruption in the elections despite the UN observers denial. Later, UNITA restarted the civil war in October 1992.

On 15 September 1993, the UN Security Council condemned UNITA for its continuing military action and demanded its troops withdrawal from the areas it seized.²⁰¹ Moreover, it imposed UN sanctions on arms and fuel supplies if UNITA did not comply with the Security Council Resolution 864. The Security Council also said that if UNITA did not obey its order by 1 November 1993, it would impose more strict sanctions, including travel restrictions on UNITA officials and trade embargo.²⁰²

¹⁹⁶ UNGA Res. 31/152, 20 Dec. 1976, 113:0:13

¹⁹⁷ Supra 3, p.128

¹⁹⁸ Annual Report of the ICRC, Geneva 1987, pp. 107-110

¹⁹⁹ Patrick Brogan, *World Conflicts*, (London: Bloomsbury, 1992) p.4

²⁰⁰ Ibid, p.3

²⁰¹ Victoria Brittain, *The Guardian*, 17 September 1993, p.15

²⁰² Karl Maier, "UN gives Savimbi a ceasefire deadline", *The Independent*, 17 September 1993, p. 16

Furthermore, the Security Council also condemned the Abkhazians fighting for the independence of the north west region of Georgia, for not obeying the peace agreement brokered between the Georgian government, the Russian Federation and the Abkhazians.

In the light of these recent developments, it does not seem wrong to suggest that the silence of international law towards civil wars and towards the use of force by national liberation movements whatever the case has started to cease. Especially imposition of the sanctions on a movement which was recognized by the OAU, is a great derogation from the previous line of non-intervention in the civil conflicts especially the one which related to the right of self-determination.

One of the most aired criticisms about the practice of States towards any right of self-determination claims and the authority to use force to secure that right, has been the double standard accusation. While criticising the double standards of some of the Third World States, Emerson stated, "My right to self-determination against those who oppress me is obviously unimpeachable, but your claim to exercise such a right against me is wholly inadmissible".²⁰³ His remarks has always been affirmed by the fact that, no state actually confronting a national liberation organisation has acknowledged its legitimacy to use force against herself even she has been a defender of the right to resort to force for national liberation movements. For the present Yugoslavia, Serbs living in Bosnia were fighting for their self-determination right. That is why they were freedom fighters. But when Kosovo Albanians started to oppose the Serbian actions in Kosova by armed struggle, they were termed as 'terrorists' not as freedom fighters by the Serbs.

4. Third State Involvement In The Self-Determination Conflicts

A) On Behalf of National Liberation Movements

Whether international law allows it or not, there have always been States who assisted and assist national liberation movements which claimed and claim the right to self-determination. These States have supported them by arming, financing, providing bases on their territories to them. This situation in fact is contrary to the literal rule of international law which renders States the duty of not assisting armed bands that operate on the territory of another State. There are a number of General Assembly resolutions which support the said duty. The famous three of them can be cited in here.

GA Resolution 2131(XX) provides in its second paragraph that

"2. No State shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the regime of another State."

The 1970 Declaration on Friendly Relations which interprets Article 2(4) of the Charter states

"Every State has the duty to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts within another state..."

²⁰³ Rupert Emerson, "Self-determination Revisited in the Era of Decolonization", *Occasional Papers in International Affairs*, no. 9 Harvard University, Center for International Affairs, December 1964, quoted in Pomerance p. 61

Lastly, the Article 3(g) of the Definition of Aggression enumerated below acts as aggression as well

“The sending by or on behalf of a state of armed bands, groups, irregulars or mercenaries which carry out the acts of armed force against another State or its substantial involvement therein”

Despite these, there are some saving clauses in both the 1970 Declaration and the Definition of Aggression which provided that people 'in pursuit of the exercise of their right to self-determination... are entitled to seek and to receive support in accordance with the purposes and principles of the Charter'.

The appearance of these two diverse rules in the resolutions and the guerrilla manner operation of national liberation movements are the sources of controversy. If the presence of the self-determination dimension in the national liberation conflicts could be accepted as a diminishing effect on the duties of States in this regard, this time, it would mean reintroduction of the medieval doctrine of just war.²⁰⁴

The issues of the activities of armed bands on the territory of a State, the lawfulness of the assistance accorded to those armed bands by third States and the ways of response that the target-State of the action of armed bands is entitled to resort to against both the guerrillas and the assisting State or States, have been dealt with considerably by the International Court of Justice in the *Nicaragua Case(Merits)*²⁰⁵ between Nicaragua and the USA in 1986. The case was brought before the Court by Nicaragua because of the American government's subversive acts against her and American government's help to the Contras, Nicaraguan guerrillas fighting to overthrow the left-wing Sandinista government in Nicaragua.²⁰⁶ Admittedly, the Court was not concerned with the activities of a national liberation movement 'in the process of decolonisation'.²⁰⁷ However the Court has stated that

“The principle of non-intervention derives from customary international law. It would certainly lose its effectiveness as a principle of law, if intervention were to be justified by a mere request for assistance made by an opposition group in another State... Indeed, it is difficult to see what would remain of the principle of non-intervention in international law if intervention, which is already allowable at the request of the government of a State, were also to be allowed at the request of the opposition... Such a situation does not in the Court's view correspond to the present state of international law.”²⁰⁸

Although the Court held that it was not concerned with the process of decolonization in its decision, since the classical decolonization was accomplished to a great extent, it is thought that the new national liberation movements can be listed under the heading of the opposition groups. In this instance, it would be quite controversial to admit the right of national liberation organizations to receive third State assistance.

Judge Schwebel has touched on the problem of assistance to the national liberation movements in his dissenting opinion. He stated

²⁰⁴ Supra 31, p.48

²⁰⁵ ICJ Reports, 1986, 14

²⁰⁶ Supra 53, p. 824

²⁰⁷ ICJ Report 1986, p. 14 at p. 108, paragraph 206

²⁰⁸ ICJ Report 1986, p. 14 at para. 246

“...It is lawful for a foreign state to give people struggling for self-determination moral, political and humanitarian assistance; but it is not lawful for a foreign state to intervene in that struggle with force...”²⁰⁹

As that statement shows, humanitarian assistance to the national liberation movement is by all means lawful. However, the possibility of material assistance to the liberation movement by way of provision of arms, training, funds and logistical support seem to be the more problematic and controversial. Since as it is noted above sections, the 1970 Declaration as well as the Article 7 on the Definition of Aggression left undefined the type of the assistance which can be rendered to the people who struggle for their right to self-determination. The 1970 Declaration simply said that 'such people are entitled to receive support'.

As recent events show, the cross border military, humanitarian, and political assistance are on the increase to the minorities which have their majority in the neighbouring states. These neighbour States use the people's right to self-determination as their reason to assist them.. The Serbian assistance and intervention to the Serbs in Bosnia and Croatia, Croatian intervention and assistance to the Croats in Bosnia, Armenian intervention and assistance to the Armenians in the Nagorno-Karabakh region of Azerbaijan, Russian intervention and assistance to the ethnic Russians living in the Dniester region of Moldova, and Abkhazian intervention and assistance in Georgia can be counted among them. With the decline of ideological assistance era, the traditional way of assisting brethren in the neighbouring countries seems likely to dominate in the near future.

International law in this regard seems to be concrete. First, it favours the territorial integrity of States. Second, although the humanitarian assistance is allowed, the military assistance is more controversial and most probably against the principle of non-intervention in the sovereignty of States. It is highly probable that such types of assistance and intervention are seen as for forcible territorial change rather than promoting the right of self-determination of the people of these territories.

Recent intervention of Nato in New Yugoslavia on behalf of Kosovo Albanians seems that it will have serious implications for the development of Law in this regard. That is, humanitarian issues will override the territorial integrity and non-intervention principles.

B) On Behalf of The Established States

The assistance and intervention on behalf of the established State is generally accepted as legitimate. But this issue is open to controversy in the case of colonial situations. It is thought that the administering Power will not be assisted in her attempt to deprive a people of the exercise of its right to self-determination.

CONCLUSION

The principle of self-determination has evolved from a political principle to a legal principle in international law. Its metamorphosis from a principle to a right for all peoples has

²⁰⁹ ICJ Report 1986, p. 14 at p. 351, para. 180

been confirmed in a number of UN Resolutions like 1966 Human Rights Declaration, 1970 the Declaration on the Principles of Friendly Relations.

Self-determination has certainly become a right for the people of non-self-governing territories. It can also be considered for the people who live under discriminating and oppressive regimes.

With the independence of Bangladesh, self-determination has found new applicable areas outside the colonial context. The independence of Eritrea from Ethiopia is one of the recent successful examples of the realisation of self-determination outside the colonial context.

The realisation of self-determination does not necessarily lead to independence. Free association with an independent state or integration with an independent state are among options according to the GA Res. 1541(XV).

It has become a reality of our time that secessionist, irredentist, and national liberation wars are the greatest killers of our time, either directly through bloodshed or indirectly through hunger or disease stemming from such wars.²¹⁰ O'Loughlin and Wusten maintain that the causes of wars after 1990's will most probably be ethno-nationalist disputes²¹¹, that is, related to national liberation wars. In the last couple of years, we have been living through examples of it: the war in Slovenia, Croatia, Bosnia-Herzegovina, Chechenia and lastly in Kosovo.

Up until now, many General Assembly and Security Council Resolutions supported the right of self-determination for the colonial people. By the end of decolonisation to a great extent, it is suggested that self-determination in future may become a more conservative principle than has sometimes been thought or feared.²¹²

Nonetheless, despite the guarantees of the territorial unity of the states, the recent proliferation of states from Soviet Union and Yugoslavia shows that even if the international law is very reluctant to recognise new entities as states, it nonetheless does not ignore the realities on the ground and changes that had taken place. That is, the right of self-determination may exist in the case of great violations of human rights towards distinctive communities.

In the past, the use of force by people struggling for the right to self-determination was neither condemned nor condoned. The assistance to these movements even sometimes encouraged by the General Assembly resolutions.

The end of decolonisation and the collapse of the Cold War system and the possibility of the proliferation of weak Third World States²¹³ will most likely have a hardening effect on the stances of States in similar international documents. The recent decisions of the Security Council on Angola and Abkhazia may be the indications of the new approach. As it is noted earlier, for the first time in its history, the UN sanctions have been directed against a political movement as opposed to a member State.

The acceptance of Eritrea to the UN and condemnation of some of the movements in the Member States show that the confusion and lack of a coherent approach still continue with regard to self-determination and the use of force for the attainment of it.

²¹⁰ Supra 1, p.139

²¹¹ Peter Taylor (ed), *Political Geography of the Twentieth Century*, (London: Belhaven Press, 1993) p. 106

²¹² Supra 64, p. 100

²¹³ Lawrence Freedman, 'Weak States and the West' ,*The Economist*, September 11th-17th 1993, pp. 46-50

Let's hope that international society will find the best possible peaceful means to settle the self-determination disputes for the benefit of both distinctive people and States.

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