Public International Law

Lecture 7

UNIT IV :- THE FUNDAMENTAL PRINCIPLES OF INTERNATIONAL LAW

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The UN Security Council Resolutions on Libya (2011) and the Responsibility to Protect.

While the United Nations Security Council's adoption of Resolution 1973 on 17 March 2011 may well go down in UN history as one of the more momentous occasions, not only for the UN but also the contemporary development of international law, for the time being the international community is fixated on the military implementation of the Resolution in Libya.

Despite the relative speed with which the Security Council first acted on 26 February, when it unanimously adopted Resolution 1970 (which imposed sanctions against the Libyan regime in the face of a mounting humanitarian crisis, and then followed it up with Resolution 1973 only 19 days later), it was clear that no detailed consideration had been given as to how the military enforcement of the Security Council's mandate would be carried out. This dilemma, which highlighted the absence of standing UN armed forces — notwithstanding the original intent of the framers of the Charter — was initially overcome through the willingness of the British, French and the US to commit forces to the initial implementation and enforcement of the mandated Libyan no-fly zone.

The real significance of this UN response to the Libyan crisis is that, for the first time, it represents and implements the responsibility to protect concept. The concept emerged in 2001 from the report of the International Commission on Intervention and State Responsibility, which the former Australian Foreign Minister Gareth Evans co-chaired. The report was completed against the backdrop of the international community's failure to prevent mass atrocities in Rwanda and Srebrenica in the 1990s, and the 'successes' of the 1999 interventions in Kosovo and East Timor.

The basic tenet of Right to Protect is that national authorities have the primary responsibility to protect their own citizens from mass atrocities, but that responsibility will shift to the international community when national authorities are

manifestly failing to protect their citizens. This idea was officially endorsed in the 2005 World Summit Outcome, in which world leaders affirmed their commitment to the responsibility to protect populations from mass atrocities. Since then, the language of Right to Protect has informed mediation efforts by the former UN Secretary-General Kofi Annan in Kenya, and the deployment of a UN-African Union hybrid mission in Darfur based on the consent of the Sudanese government.

Given this background, what made the Libyan situation move the international community to eventually agree to military enforcement of Right to Protect? A key trigger was Gaddafi's use of the Libyan Air Force against his people. Deploying the Air Force to engage in the strafing of protesting civilians is a crime against humanity and this was the initial finding, albeit a political and not a legal one, by the Security Council when it adopted Resolution 1970. Since then, the Prosecutor of the International Criminal Court confirmed on 3 March that an investigation had commenced into the commission of crimes against humanity in Libya.

Another factor that motivated the UN was the threat of the Libyan regime to seek vengeance against the rebels and their supporters who had dared to back the uprising against Gaddafi. This no doubt created a dilemma. Should the UN sit back and await clear and compelling evidence of the commission of mass atrocity crimes in Libya, or should it proactively intervene when all the evidence pointed to a high probability that this was what was about to occur? Perhaps, in the case of Libya, that judgment was made just a little easier because of the Gaddafi regime's past record.

This development has shown a bright and dark side to the implementation of Right to Protect by military means. The bright side is that Right to Protect has been applied against a government manifestly failing to protect their own citizens. For the first time in history, the Security Council authorised member states to take all necessary measures, except for occupying forces, with the primary objective of protecting civilians and civilian populated areas under threat of attack in Libya.

The dark side is that the consequences of this military action were not carefully thought through. It was not only China and Russia, but also Brazil, Germany and

India which abstained in adopting Resolution 1973 because of the possibility of large-scale loss of civilian lives, the danger of being drawn into protracted military confrontation, and the unintended effect of exacerbating tensions on the ground. Coalition leaders were quick to emphasise the limit of the operation solely for the purpose of protecting civilians. Yet, glimpses of the political interest in ousting Gaddafi's regime have been seen from the beginning, which limited the policy options available to prevent mass atrocities. Now, the rebels are still struggling to win against the military superiority of Gaddafi's forces, raising questions as to whether the Coalition should arm the rebels, an option US Secretary of State Hilary Clinton said was within her interpretation of the resolution — but this is contentious.

The humanitarian cause for deciding to save lives, even by military means, is to be applauded. The legal authority to authorise the military action was also rightly sought and secured on this occasion. However, ill-informed action and mishandling of the situation can easily turn the moral legitimacy of the intervention and its political support upside-down. A serious failure here, therefore, could have significant consequences for the futures of both Right to Protect and the people of Libya.

Prohibition of the Use of Force

Introduction

Law includes a system of authorized coercion in which force is used to maintain and enhance public order objectives and in which unauthorized coercions are prohibited. Thus, law and coercion are not dialectical opposites.[1]

On the contrary, formal legal arrangements are not made when there is a spontaneous social uniformity; then there is no need for law. Law is made when there is disagreement; the more effective members of the group concerned impose their vision of common interest through the instrument of law with its program of sanctions. Law acknowledges the utility and the inescapability of the use of coercion in social processes, but seeks to organize, monopolize, and economize it.

The international legal system diverges from these general legal features only in terms of degree of organization and centralization of the use of coercion. In national systems, coercion is organized, relatively centralized, and, for the most part, monopolized by the apparatus of the state. In the international system, it is not. Individual actors historically have reserved the right to use force unilaterally to protect and vindicate legal entitlements.

Historical Overview

1815-1945

In 19th century, war was considered to be the last resort for dispute settlement in Europe. It was an attribute of statehood and conquest produced title. States reserved the right to wage war without any internationally agreed regulatory framework. The concept of just and unjust war emerged.

The three criteria for just war given by St. Augustine and St. Thomas Aquinas, the latter famously stated in Summa Theologica are:

- it should be waged by a sovereign authority (prohibition2 of waging a private war)
- it must have a just cause (punishment of wrongdoers)
- a just cause must be accompanied by the right intention.

Together with the rise of independent states in Europe, the doctrine began to evolve. In light of the growing number of sovereign states, wars started to be seen and defined as a state of legal affairs rather than a matter of subjective moral judgment. States no longer found themselves in a position to judge if another states reason for resorting to force was just or not.

This approach was supported by the rise of positivism, which strongly focused on the idea of sovereignty and by the Peace of Westphalia 1648, which established the European system of the balance of power. This system survived in Europe until the beginning of the twentieth century, effectively coming to an end with the outbreak of the First World War.

In the aftermath of the First World War efforts were made to rebuild international relations between states through the establishment and operation of an international institution which would play a central role in ensuring that such acts of aggression would not occur again. The League of Nations (LON) was created in 1919 with a view to achieving this aim. Under the 1919 Covenant of the League of Nations, member states were required to submit any inter-state disputes for arbitration or seek other forms of judicial settlement at the Leagues Council. However, the Covenant did not in fact revoke the right of states to resort to war, although it subjected this provision to some limitations.

In 1928, another attempt at the legal regulation of the use of force was made, in the form of the General Treaty for Renunciation of War as an Instrument of National Policy, more commonly referred to as the Kelloggâ Briand Pact. Parties to this treaty declared that they condemn recourse to war and agreed to renounce it, as an

instrument of national policy in their relations with one another (Article 1). They agreed that settlement of disputes arising among them shall never be sought by pacific means (Article 2). The Pact had 63 states parties and is still in force. This pact was the foundation of the prosecution case on waging aggressive war at International Military Tribunals in Nuremberg and Tokyo.

The pact was a realistic and comprehensive legal regime. US invoked it in relation to hostilities between China and USSR in 1929, in 1931 in relation to conflict between china and Japan, 1933- Leticia dispute between Peru and Ecuador. The Pact even played a role in 1939, when cited by League Assembly in condemnation of Soviet action against Finland.

Post 1945 legal framework- UN Charter and its articles
The current legal framework regulating the use of force in international law is enshrined in the UN Charter. Article 2(4) is regarded as a principle of customary international law and as such binding upon all states in world community.[3] It is the cornerstone of UN Charter. It was elaborated as a principle of international law in the 1970 Declaration on principles of International Law.

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.

As the wording of Article 2(4) suggests, the force is permissible in circumstances consistent with the purposes of the UN. Chapter VII of the UN Charter (Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression), outlines when a state can resort to the use of military force against other states.

Force may be used against another state when:

- such an act is authorised by the UN Security Council as part of collective security mechanism

- a state is acting in self-defence.

The threat or use of force is confined solely to armed force used directly or indirectly (state participation in the use of force by another state or by irregulars, mercenaries or rebels).[6]it does not extent to political or economic coercion.

Article 2(6) of UN Charter provides that UN shall ensure that non UN state member to act in accordance with the principles of international law for maintenance of international peace and security.
The rules of the Charter on the use of force are brief and cannot constitute a comprehensive code. Article 2(4) and 51 are very much response to World War 2 and are accordingly directed to inter-state conflict. It is now a common place that large scale inter-state conflicts are less and civil wars- with or without state intervention have outnumbered traditional inter state wars. Cross border guerrilla incursions and limited inter state fighting in border areas have been the norm rather than all-out wars between states.

The apparently simple words of the Charter have given rise to fundamental differences between states. The prohibition in use of force led to fundamental divisions as to whether the prohibition of use of force includes economic coercion, scope of right of self defense, the right to use force to further self determination and to intervene in civil wars. With the dominance of USA as a super-power and virtual end of decolonisation, there is a call for reappraisal of international law on use of force.

How far should the Charter be interpreted to allow the use of force to restore or further the democracy, to restore order in a state without an effective government, to further the right to self-determination outside the decolonisation context and to respond to terrorist attacks? How far should the UN Security Council exercise centralised control over these and other uses of force?

The International Court of Justice in Nicaragua case regarded the Charter provisions as dynamic rather than fixed, and thus is capable of change over time through state practice.

Authorization By UN Security Council

The Security Council is empowered to adopt measures involving the use of force pursuant to Article 42 in Chapter VII of the United Nations Charter. This is one of few circumstances where the use of force is accepted as legally justified. Article 42 remained inoperative during most of the Cold War, as the Councils five permanent members used their veto to block nearly every attempt to adopt a resolution authorizing force. Thus, the Council was seldom able to take effective action in accordance with its primary responsibility for the maintenance of international peace and security pursuant to the UN Charter Article 24(1). The end of this era enabled the Security Council to be considerably more active, and it has adopted a large number of resolutions.

Decisions of the Security Council in accordance with the UN Charter are binding upon all Member States pursuant to Article 25. According to Article 103, this has the consequence that a Council resolution will prevail in the event of a conflict with obligations Members may have under other agreements. Hence, a Council resolution may impose exceptions from treaties, i.e. oblige States to act contrary to international agreements by which they are bound.

Chapter VII of the UN Charter contains provisions concerning:
Action with Respect to Threats to the Peace, Breaches of the Peace and Acts of Aggression. When the Security Council has determined the existence of one of these situations under Article 39, it can decide provisional measures under Article 40.

Pursuant to Article 41, the Council can decide what measures not involving the use of armed force to be applied in order to give effect to its decisions. If such measures under Article 41 prove to be inadequate or the Council consider them to be so, it may

take actions involving the use of armed force. Article 42 of the Charter states that the Council may take such action by air, sea or land forces as may be necessary to maintain or restore international peace and security. So far, measures not involving armed force has initially been applied in every situation where force has finally been authorized by the Council.

Article 39- determination provision

- threat to the peace
- breach of the peace
- act of aggression

Threat to the peace

This is the broadest of the three categories, and it is difficult to find a precise definition. Shaw notes that in a sense it constitutes a safety net for the Security Council where the conditions needed for a breach of the peace or act of aggressions do not appear to be present.[7] Practice since the Kuwait crisis in 1990 has shown that the range of situations the Council has determined to constitute threats to international peace and security has broadened.

At its most basic, the concept is intended to enable a response to imminent armed conflict between states. Severe intrastate violence (Balkan war prior to splintering of Yugoslavia), serious violations of human rights and humanitarian law (Somalia and other east/central African nations during early 1990s) and terrorism have been designated as threats to peace.

In Resolutions 1368[8] and 1373[9], adopted after the September 11 terrorist attacks in the United States, the Security Council stated that such acts, like any act of international terrorism, constitute a threat to international peace and security.

The concept includes not only situations in which the use of armed force appears imminent, but where factors subsist that may lead to use of force.

Breach of peace

Breach of peace = hostility between armed units of two states. In SC Resolution 502, the Security Council considered the Argentine invasion of the Falklands to be a breach of the peace even prior to UKs counter offensive.[10] In Resolution 660 the Council determined that the Iraqi invasion of Kuwait was a breach of the peace.[11]

Act of aggression

In 1974, the General Assembly adopted Resolution 3314[12] on the definition of aggression.

Article 1 states that aggression is the use of armed force by a state against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations. Furthermore, Article 2 of the resolution says that the first use of armed force by a State in contravention of the Charter shall constitute prima facie evidence of an act of aggression.

The Council has determined acts of aggression only three times. This was in relation to Israel[13], South Africa[14] and Southern Rhodesia[15].

The inter state use of force in the years since 1991 has not produced anything like the international response triggered by Iraqui invasion of Kuwait. The conflicts which broke out between Ethiopia and Eritrea, Armenia and Azebaijan, Cameroon and Nigeria, Israel and Lebanon, and Ethiopia and Somalia did not provoke the UN to identify an aggressor and to authorize action against it. The reaction of Security Council to the outbreak of inter-state conflict has generally been to avoid condemnation and the attribution of responsibility and rather to call for a ceasefire and the restoration of peace. With regards to Iraq, resolution 678 (1990) authorized member states to use all necessary means to ensure Iraq immediately and

unconditionally withdrew all forces from Kuwait and to restore international peace and security in the area.

The Horizontal Exception to the Prohibition: Individual and Collective Self-Defence

International law recognizes an individual right of self defence ("victim" State against the "aggressor" State) and collective right of self defense ("victim" State + friendly State/s against the "aggressor" State). The UN Charter and customary international law acknowledge the right to use force in self defense.

For example, Article 51 recognizes the inherent right of a member State to use force in self defense when an armed attack occurs against that State.

"Nothing in the present Charter shall impair the inherent
right of individual or collectiveself-defenceif an armed attack occurs against a Member of the United Nations, until the Security Council has taken
measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council…"

In Nicaragua case, ICJ says an armed attack is: (1) action by regular State armed forces across an international border; (2) armed groups, irregular forces and mercenaries when (a) they are "sent by or on behalf of a State" to carry out an armed attack against another State and (b) the attack is of such gravity so that it amounts to an armed attack if it was conducted by regular armed forces of a State.

When State can use Self defence under Article 51:An armed attack has to have occurred against a member State self defense is only available against the aggressor State (the one who carried out or on whose behalf an armed attack was carried out) by the victim State (subject of the attack). The only way a third State will have a right of self defense against the aggressor State is if the victim State asks for the help of the third State (we call this collective self defense). Any use of force in self defense must be necessary and proportionate to the armed attack. As we discussed a State that uses

force in self defense must immediately inform the SC and this State can use force only until the SC steps in. See both DRC vs Uganda and Nicaragua vs USA. What we discussed so far is the treaty or UN Charter right to self defense. In addition to the treaty right, some argue that there is also a customary international law right to self defense. They argue that the Charter never intended to restrict the customary international law right of self defense (which is more wider than the right under A. 51) and that the reference to the "inherent right" of self defense in Article 51 brings in the customary international law right of self defense into Article 51.

Saavedra Lamas Treaty

The Anti-war Treaty of Non-aggression and Conciliation (also known as Saavedra Lamas Treaty) was an inter-American treaty signed in Rio on October 10, 1933. It was the brain-child of Carlos Saavedra Lamas, who was Argentinian Minister of Foreign Affairs at the time the treaty was concluded. It was signed by representatives of Argentina, Brazil, Chile, Mexico, Paraguay and Uruguay. The US government acceded to the treaty on August 10, 1934. The treaty went into effect on November 13, 1935. It was registered in League of Nations Treaty Series on November 28, 1935.

The treaty was terminated with the entry into effect of the Pact of Bogota, concluded on April 30, 1948 (article 58).

Article 1

The high contracting parties solemnly declare that they condemn wars of aggression in their mutual relations or in those with other states, and that the settlement of disputes or controversies of any kind that may arise among them shall be effected only by the pacific means which have the sanction of international law.

Article 2

They declare that as between the high contracting parties territorial questions must not be settled by violence, and that they will not recognize any territorial arrangement which is not obtained by pacific means, nor the validity of the occupation or acquisition of territories that may be brought about by force of arms.

Article 3

In case of noncompliance, by any state engaged in a dispute, with the obligations contained in the foregoing articles, the contracting states undertake to make every effort for the maintenance of peace. To that end they will adopt in their character as neutrals a common and solidary attitude; they will exercise the political, juridical, or economic means authorized by international law; they will bring the influence of public opinion to bear, but will in no case resort to intervention, either diplomatic or

armed; subject to the attitude that may be incumbent on them by virtue of other collective treaties to which such states are signatories.

Article 4

The high contracting parties obligate themselves to submit to the conciliation procedure established by this treaty the disputes specially mentioned and any others that may arise in their reciprocal relations, without further limitations than those enumerated in the following article, in all controversies which it has not been possible to settle by diplomatic means within a reasonable period of time.

Article 5

The high contracting parties and the states which may in the future adhere to this treaty may not formulate, at the time of signature, ratification, or adherence, other limitations to the conciliation procedure than those which are indicated below:

(a) Differences for the solution of which treaties, conventions, pacts, or pacific agreements of any kind whatever may have been concluded, which in no case shall be considered as annulled by this agreement, but supplemented thereby insofar as they tend to assure peace; as well as the questions or matters settled by previous treaties;

(b) Disputes which the parties prefer to solve by direct settlement or submit by common agreement to an arbitral or judicial solution;

(c) Questions which international law leaves to the exclusive competence of each state, under its constitutional system, for which reason the parties may object to their being submitted to the conciliation procedure before the national or local jurisdiction has decided definitively; except in the case of manifest denial or delay of justice, in which case the conciliation procedure shall be initiated within a year at the latest;

(d) Matters which affect constitutional precepts of the parties to the controversy. In case of doubt, each party shall obtain the reasoned opinion of its respective tribunal or supreme court of justice, if the latter should be invested with such powers.

The high contracting parties may communicate, at any time and in the manner provided for by article XV, an instrument stating that they have abandoned wholly or in part the limitations established by them in the conciliation procedure.

The effect of the limitations formulated by one of the contracting parties shall be that the other parties shall not consider themselves obligated in regard to that party save in the measure of the exceptions established.

Article 6

In the absence of a permanent conciliation commission or of some other international organization charged with this mission by virtue of previous treaties in effect, the high contracting parties undertake to submit their differences to the examination and investigation of a conciliation commission which shall be formed as follows, unless there is an agreement to the contrary of the parties in each case:

The conciliation commission shall consist of five members. Each party to the controversy shall designate a member, who may be chosen by it from among its own nationals. The three remaining members shall be designated by common agreement by the parties from among the nationals of third powers, who must be of different nationalities, must not have their customary residence in the territory of the interested parties, nor be in the service of any of them. The parties shall choose the president of the conciliation commission from among the said three members.

If they cannot arrive at an agreement with regard to such designations, they may entrust the selection thereof to a third power or to some other existing international organism. If the candidates so designated are rejected by the parties or by any one of them, each party shall present a list of candidates equal in number to that of the members to be selected, and the names of those to sit on the conciliation commission shall be determined by lot.

Article 7

The tribunals or supreme courts of justice which, in accordance with the domestic legislation of each state, may be competent to interpret, in the last or the sole instance and in matters under their respective jurisdiction, the constitution, treaties, or the general principles of the law of nations, may be designated preferentially by the high contracting parties to discharge the duties entrusted by the present treaty to the conciliation commission. In this case the tribunal or court may function as a whole or

may designate some of its members to proceed alone or by forming a mixed commission with members of other courts or tribunals, as may be agreed upon by common accord between the parties to the dispute.

Article 8

The conciliation commission shall establish its own rules of procedure, which shall provide in all cases for hearing both sides.

The parties to the controversy may furnish, and the commission may require from them, all the antecedents and information necessary. The parties may have themselves represented by delegates and assisted by advisers or experts, and also present evidence of all kinds.

Article 9

The labors and deliberations of the conciliation commission shall not be made public except by a decision of its own to that effect, with the assent of the parties.

In the absence of stipulation to the contrary, the decisions of the commission shall be made by a majority vote, but the commission may not pronounce judgment on the substance of the case except in the presence of all its members.

Article 10

It is the duty of the commission to secure the conciliatory settlement of the disputes submitted to its consideration.

After an impartial study of the questions in dispute, it shall set forth in a report the outcome of its work and shall propose to the parties bases of settlement by means of a just and equitable solution.

The report of the commission shall in no case have the character of a final decision or arbitral award either with respect to the exposition or interpretation of the facts, or with regard to the considerations or conclusions of law.

Article 11

The conciliation commission must present its report within 1 year, counting from its first meeting, unless the parties should decide by common agreement to shorten or extend this period.

The conciliation procedure, having been once begun, may be interrupted only by a direct settlement between the parties or by their subsequent decision to submit the dispute by common accord to arbitration or to international justice.

Article 12

In communicating its report to the parties, the conciliation commission shall fix for them a period, which shall not exceed 6 months, within which they must decide as to the bases of the settlement it has proposed. On the expiration of this term, the commission shall record in a final act the decision of the parties.

This period having expired without acceptance of the settlement by the parties, or the adoption by common accord of another friendly solution, the parties to the dispute shall regain their freedom of action to proceed as they may see fit within the limitations flowing from articles I and II of this treaty.

Article 13

From the initiation of the conciliatory procedure until the expiration of the period fixed by the commission for the parties to make a decision, they must abstain from any measure prejudicial to the execution of the agreement that may be proposed by the commission and' in general, from any act capable of aggravating or prolonging the controversy.

Article 14

During the conciliation procedure the members of the commission shall receive honoraria the amount of which shall be established by common agreement by the parties to the controversy. Each of them shall bear its own expenses and a moiety of the joint expenses or honoraria.

Article 15

The present treaty shall be ratified by the high contracting parties as soon as possible, in accordance with their respective constitutional procedures.

The original treaty and the instruments of ratification shall be deposited in the Ministry of Foreign Relations and Worship of the Argentine Republic, which shall communicate the ratifications to the other signatory states. The treaty shall go into effect between the high contracting parties 30 days after the deposit of the respective ratifications. and in the order in which they are effected.

Article 16

This treaty shall remain open to the adherence of all states.

Adherence shall be effected by the deposit of the respective instrument in the Ministry of Foreign Relations and Worship of the Argentine Republic, which shall give notice thereof to the other interested states.

Article 17

The present treaty is concluded for an indefinite time, but may be denounced by 1 year's notice, on the expiration of which the effects thereof shall cease for the denouncing state, and remain in force for the other states which are parties thereto, by signature or adherence.

The denunciation shall be addressed to the Ministry of Foreign Relations and Worship of the Argentine Republic, which shall transmit it to the other interested states.

Stimson Doctrine 1932

The policy of expansionism in China pursued by the autonomous Kwantung Army of Japan accelerated in the late 1920s and early 1930s and became a major concern of the U.S. government. On September 18, 1931, Japanese soldiers guarding the South Manchurian Railway blew up part of the track in order to manufacture an excuse to seize Manchuria proper. Secretary of State Henry L. Stimson reacted to what he regarded as a violation of international law as well as treaties that the Japanese Government had signed. Since calls for a cessation of hostilities between China and Japan failed and President Herbert Hoover had rejected economic sanctions in principle, Stimson declared in January 1932 that the U.S. Government would not recognize any territorial or administrative changes the Japanese might impose upon China. The Stimson Doctrine was echoed in March 1932 by the Assembly of the League of Nations, which unanimously adopted an anti-Japanese resolution incorporating virtually verbatim the Stimson Doctrine of nonrecognition. However, as the Secretary of State later realized, he had at his disposal only "spears of straws and swords of ice." In short order, Japanese representatives simply walked out of the League, and the Kwangtung Army formalized its conquest of Manchuria by establishing the puppet state of Manchukuo under former Chinese emperor Pu-Yi. When war between Japan and China broke out following a minor clash between military units at the Marco Polo Bridge in 1937, the impotence of the "Stimson Doctrine" became even more apparent.

UN Charter

Article 2

The Organisation and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

(2) All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter.

(3)All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

The Definition of Aggression, annexed to General Assembly Resolution 3314 (XXIX), 14 December 1970

Article I

Aggression is the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations, as set out in this Definition.

Explanatory note: In this Definition the term "State":

(a) Is used without prejudice to questions of recognition or to whether a State is a member of the United Nations;

(b) Includes the concept of a "group of States" where appropriate.

Article 2

The First use of armed force by a State in contravention of the Charter shall constitute prima facie evidence of an act of aggression although the Security Council may, in conformity with the Charter, conclude that a determination that an act of aggression has been committed would not be justified in the light of other relevant circumstances, including the fact that the acts concerned or their consequences are not of sufficient gravity.

Article 3

Any of the following acts, regardless of a declaration of war, shall, subject to and in accordance with the provisions of article 2, qualify as an act of aggression:

(a) The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof,

(b) Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State;

(c) The blockade of the ports or coasts of a State by the armed forces of another State;

(d) An attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State;

(e) The use of armed forces of one State which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement;

(f) The action of a State in allowing its temtory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State;

(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 acts listed above, or its substantial involvement therein.

Article 4

The acts enumerated above are not exhaustive and the Security Council may determine that other acts constitute aggression under the provisions of the Charter.

Article 5

1. No consideration of whatever nature, whether political, economic, military or otherwise, may serve as a justification for aggression.

2. A war of aggression is a crime against international peace. Aggression gives rise to international responsibility.

3. No territorial acquisition or special advantage resulting from aggression is or shall be recognized as lawful.

Article 6

Nothing in this Definition shall be construed as in any way enlarging or diminishing the scope of the Charter, including its provisions concerning cases in which the use of force is lawful.

Article 7

Nothing in this Definition, and in particular article 3, could in any way prejudice the right to 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 Cooperation 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 these peoples to struggle to that end and to seek and receive support, in accordance with the principles of the Charter and in conformity with the above-mentioned Declaration.

Article 8

In their interpretation and application the above provisions are interrelated and each provision should be construed in the context of the other provisions.