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THE USE OF FORCE AGAINST PERPETRATORS OF INTERNATIONAL TERRORISM

It is evident from history that the international community responds to a regional or international armed conflict in a multifaceted and unclear manner. [2, p. 504–505]. That is, the international community criticizes the use of force by one state in the territory of another. Such force is an apparent breach of territorial sovereignty of the host state when the military actions by the victim state are launched against NSAs in the territory of the host state and when the host state has not given express and open consent to the victim state to use force in its territory. [3, p. 55–62]. This weakens support for the stance of the victim state. As a result, its right of self-defense would appear to be at stake, despite this right having been recognized by Article 51 of the United Nations Charter.

Furthermore, it is pertinent to mention here that modern technology can also help NSAs to grow stronger because it can assist NSAs to act in a more organized manner; for instance, using fast communication tools, the Internet, sophisticated weaponry, location trackers, and other technological tools can help them strategically to hold their presence for a longer time.

NSAs that are more advanced in military capacity as well as in organization can capture natural resources and can use them for financial support. For instance, ISIS has captured the oil wells near the Iraq and Syrian borders and has allegedly been found to be earning around a million dollars a day from exporting oil to some countries. The seizure of such resources can make NSAs, like ISIS, grow stronger and states, like Syria, grow relatively weaker when their territory is captured by NSAs; therefore, the nature of the ISIS threat is getting stronger. Consequently, in a situation where NSAs are growing stronger and are generating threats to states globally, but the international community remains undecided about approving the use of force against them, there can arise the possibility of victim states indulging in proxy wars in host states [1, p. 40–46].

As it is the inherent right of the victim state to use force in its self-defense, the victim state may choose to act either by launching a direct attack against NSAs within the territory of a host state or by punishing them through another NSA group that may not be officially identified as having associations with the victim state. In either case, the victim state would be using force to exercise its inherent right of self-defense. However, such a situation would cause severe damage to the peace and stability of the region, particularly in a situation when the victim state chooses to act surreptitiously by supporting a NSA group to fight against another NSA group threatening the security of the victim state from within the host state's

territory. Moreover, it may also lead to severe human rights violations in which local civilians might also face significant harm, because NSAs do not follow any obligations of international law, despite the fact that the UN Charter and customary international law applies to them. Furthermore, any of the two fighting NSAs may attempt to create a state of its own in the territory captured and controlled by it.

Thus, the main concern is that a divorce between international law and contemporary reality is harmful and becomes imminent in the aforementioned armed conflict, which can convince the victim states to use subversive means to respond in order to preserve their self-defense. These concerns are compelling because international law does not provide guidance particularly in the event of an armed conflict between a state and an NSA residing in another sovereign state; furthermore, there are no particular laws but only inferences from the principles of international law that can suggest or endorse possible reactions for preserving victim states' right of self-defense. Such a situation can impel victim states to behave outside their legal obligations when they do not find any part of international law favoring their self-defense stance. Hence, ignoring the problems such as armed conflict between a state and an NSA in another state can cause ambiguity in international law and, at times, can lead to its disregard by the international community, which may choose to act outside the law to safeguard their self-defense or to protect their interests.

There is an urgent need for international law to evolve in a manner that would provide effective and pragmatic regulations covering all kinds of conflicts and issues, whether between states or between a state and an NSA. Furthermore, international armed conflicts should be regulated in relation to addressing the sovereignty of the states involved in the conflict. Finally, international law also needs to provide effective and pragmatic recommendations for dealing with weak or failed states in such a manner that protects their sovereignty, particularly for those states that are directly or indirectly involved in an armed conflict. Such guidelines, if provided, would result in protecting the sovereignty of states from infringement by NSAs like ISIS.

Список використаних джерел

1. Andrew Mumford Proxy Warfare and the Future of Conflict. Nottingham : University of Nottingham, 2013. P. 40–46.

2. Krieger, Heike Inducing Compliance with International Humanitarian Law : Lessons from the African Great Lakes Region. Cambridge : Cambridge University Press, 2015. P. 504–550.

3. Ladislav Bizimana Conflict in the African Great Lakes Region : A critical analysis of regional and international involvement. Bilbao : Universidad de Deusto, 1999. P. 55–62.