**COERCIVE MEANS OF CONFLICT RESOLUTION**

INTRODUCTION

 In default of the resolution of dispute by peaceful means under Article 2, paragraph 4, of the UN charter which prohibits the use of force by states, Article 51 of the United Nations charter says that states reserved the right to use force when there is periculum in mora, that is when they believe their very lives and vital interests are endangered beyond the possibility of redress if immediate action is not taken, when there is necessity for action which is “ instant, overwhelming, and leaving no choice of means and no moment for deliberation,” as formulated by Webster’s in the Caroline case. States may well resort to force in the light of the above justification.

War States usually wage war against each other for the purpose of achieving a desired goal or objective. It is normally resorted to when no peaceful method of resolving the dispute can be accomplished. It is usually a “show of strength” or “an act of violence” between two or more states through their armed forces, with the intention or purpose of compelling their opponents to dance to their tune or to impose conditions of peace as the victor pleases. Therefore, it is a case of the victor and the vanquished.

**Reprisals:** The word or concept “reprisals” was known as andidepsia among the Greeks; and was called reprisaglia among the Roman. Reprisals relate to coercive actions or measures taken by one state against another in the resolution of dispute between the states. The use of reprisals in medieval Greece and Rome hinged its justification on the principle of communal or collective responsibility between the citizenry and sovereigns, in which “all were deemed severely liable for the default of the individual;” a fact attributed to the oneness of interest deemed to have existed between a sovereign and his subjects. Thus, “an individual, who had suffered injustice abroad and had been unable to obtain redress in the state concerned, would obtain his own sovereign’s authority to take reprisals against the nationals of the foreign sovereign.” Among the Greeks, for instance, “that custom permitted the relatives of an Athenian murdered by a foreigner, if satisfaction were refused, to seize three fellow countrymen of the murderer and hold them for judicial condemnation, as a compensation, or even to death penalty”. Unlike retortion, which takes a legal form, a state has the right when she so desires to withdraw her presence in another country through the withdrawal of her ambassador. A reprisal is not legal. Reprisal therefore, is made up of acts relating to seizure of goods or persons. In this present day dispensation, it may take any form ranging from bombardment, placement of embargo on goods or boycott of the goods being produced by a particular state. A reprisal may also take the form of expulsion of citizens of the enemy country. A typical example is the dispute between America and Libya in which the former justified her bombardment of Libya on violent activities directed at America for a considerable period of time. This was the basis for the justification by the American government of the aerial bombing of targets around the borders of Libya on 15 April 1986. A reprisal action may also be contemplated in the case of belligerent states. According to Kalshoven, belligerent reprisals consist in “an international infringement of the law of armed conflict, with a view to making the opposing party abandon an unlawful practice of warfare… using inhumanity as a means of enforcing the law of armed conflict…, in the interests of humanity”. Belligerent reprisals are not constrained by the considerations of humanity but are accepted with fatalism according to Kalshoven. With regard to the objections of the UN, it is doubtful if a reprisal action can be justified without first exhausting all amicable methods of settling a conflict. For example, Article 2 in paragraphs 3 and 4 (earlier stated) of the UN Charter provides that: “All members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.” Despite the UN Charter’s proscription of the use of force in resolving dispute, the main exception is concerned with self-defence and can be found in Article 51. Article 51 states that: Noting 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 most unfortunate thing is that Article 51 fails either to define “armed attack” or to specify whether the attack must be upon the territory of the state under attack or the nationals of a state who are being attacked beyond its borders. There arose a situation in 1976 when an Air France aircraft with 251 passengers on board was hijacked by
pro-Palestinian hijackers and taken to Entebbe Airport in Uganda. The hijackers released the majority of the passengers but continued to hold some 60, most of whom were Israeli citizens. The Uganda government (under Idi Amin) did little to bring the hijack to an end and shortly before a deadline set by the hijackers an Israeli commando raid took place. The (Israeli) commandos arrived Entebbe unannounced and stormed the hijacked craft, released the passengers and eliminated the hijackers (and some 45 Ugandan soldiers) before returning with the passengers to Israel. Although, it cannot be established whether international law permits such a rescue operation or frowns at it. But, Israel in defence of justification of her action claimed that Article 51 permitted her to use force in such a circumstance in order to protect its citizens abroad if the state in which they found themselves was either unable or unwilling to protect them. This act led to division in international opinion (less along the lines of international law than of individual states attitude of Israel) but ever since, it has become at least implicitly accepted that in such circumstances, if a state has sufficient power to rescue its citizens, then if the intervention does not exceed what is a proportionate response it will not be regarded as inconsistent with Article 51. But it is very clear that the ability to exercise such a right belongs only to powerful states. It is equally clear that claims of such a right are obviously open to abuse (as for instance when the United States invaded Granada in 1983 supposedly to rescue its nationals, or when it intervened in Panama in 1989 – certainly in neither case was the primary objective of the US actions the rescue of nationals). It is probably correct to conclude that intervention to rescue nationals will not be contrary to Article 2(4) provided the following conditions are met:

• the threat to nationals is real and imminent

• the state where they are being held is unwilling or unable to protect them • the sole purpose of the intervention is rescue

• the response is proportionate in the sense that more lives may be expected to be saved than lost.

**Retortion** Retortion is another coercive or forcible legal means of conflict resolution by which a nation may show its disapproval by way of retaliation for the discourteous act of another state. It relates to an unfriendly but legitimate act of the nation that has been slighted. Retortion in international law is a phrase used to describe retaliatory action taken by one foreign government against another for the stringent or harsh regulation or treatment of its citizens who are within the geographical boundaries of the foreign country. It can also be described as rare retaliatory actions taken by a state whose citizens have been mistreated by a foreign power by treating the subjects of that power similarly. It can also be defined as mistreatment by one country of the citizens or subjects of another country in retaliation for similar mistreatment received. Although, Article 2(3) of the UN Charter provides that: “All members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered;” a state that has been slighted may decide to take a legitimate action that is within its power to register its protest or displeasure against another state.

Such a state can take different actions for the purpose of pursuing this course. Such actions include termination or severing of diplomatic relations with the state that has thus offended the slighted state, withdrawal of commercial concession that might have been granted the state, the purpose being to show disapproval of such unfriendly conduct. Case Study I The Russia and United State of America case of Friday, March 23, 2001, in which Russia declared four (4) staff members from the U.S embassy in Moscow “persona non grata” and demanded they leave Russia in the next few days, as a retaliatory measure against Thursday, March 22, 2001 similar to US move against Russia. The US diplomats were expelled on the ground of embarking on “activities incompatible with their status”. The US on the other hand a day preceding Russian expulsion of US diplomats, formally announced expulsion of Russian diplomats accused of direct involvement with a former FBI agent spying for Moscow, and said that additional 46 Russian embassy staffers will also have to leave by July, 2001. Moscow in return strongly protested against Washington’s decision and said that it will take an adequate action in response. This “spymania scandal” marked the most serious spy row between Russia and United States since the end of Cold War. Case Study II Israel used this justification when invading the Lebanon in 1982, arguing that the invasion was an act of self-defence in response to terrorist attacks, and again when attacking PLO headquarters in Tunisia and Killing 60 people in 1985 after the murder of three Israeli citizens on a yacht in Larnaca harbour in Cyprus supposedly by a Palestinian task force. Case Study III In 1986, a terrorist bomb exploded in a West Berlin nightclub frequented by US service men. Two Americans lost their lives and several sustained injuries. Ten days later the US bombed Tripoli in Libya, claiming to have information that Libya was the source of the Berlin terrorist act in which fifteen people were killed. The then US Secretary of State, George Shultz asserted that this action was within Article 51 but there was little international support for his argument. Both Israel and the US have insisted that this right of self-defence even covers attacks upon states not directly involved in the terror, as for instance Tunisia in 1985.

**Economic Sanctions/ Blockade Economic sanctions/blockade** may be employed to deter military aggression or to force an aggressor to withdraw its armed forces from a disputed territory. Economic sanctions may also be used to curb weapons proliferation. Article 42 of the UN Charter provides that: Should the Security Council consider that measures provided for in Article 41 would be inadequate, it may take such action by air, sea or land forces as may be necessary to maintain or restore international peace and security, such action may include demonstrations, blockade, and other separations by air, sea or land forces of members of the United Nations. Article 41 to which Article 42 makes allusion provides thus: The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decision, and it may call upon the members of the United Nation to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio and other means of communication, and severance of diplomatic relations. Article 39 of the United Nations Charter provides thus: The Security Council shall determine the existence of any treat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Article 41 and 42 to maintain or restore international peace and security. It needs be emphasised that international law frowns at war but throws its weight behind self-defence. It states that in a situation of self-defence by an invaded state or by the UN in pursuit of global peace, Article 39, 41 and 42 apply to both situations of war and hostilities. The tenor of the provisions of Article 39, 41 and 42 seems to be that complete or partial interruption either for economic or other reason. The articles therefore gives the Security Council the power to implement “partial interruption of economic relations” to counteract “threats to peace, breaches to the peace, and acts of aggression”. The charter implies that sanctions should only be used to enforce international peace and security. As former Secretary General, Boutros Ghali said, “the purpose of sanctions is to modify the behaviour of a party that is threatening international peace and security and not to punish or otherwise exact retribution”. Additionally, the Security Council has the power to make economic sanctions mandatory for member states. Studies have shown that both the pacific blockade and economic sanctions in practical terms are usually being used by the stronger countries against the weaker ones in order to protect their selfish interests. Although, the stronger countries do hide under the pretence of trying to ensure compliance with some measures like prevention of war, execution of treaties and so on. Example: The 200 – mile Total Exclusion Zone declared by the United Kingdom government around the Falkland Islands which was further extended on 7 May 1982 to 12 miles from the coast of Argentina in pursuit of Article 51 of the United Nations Charter which deals with self-defence. It ran thus: … the exclusion zone will apply not only to Argentina warships and naval auxiliaries, but also to any other ship, whether naval or merchant vessel, which is operating in support of the illegal occupation of the Falkland Island by Argentine forces. The Zone will also apply to any aircraft, whether military or civil, which is operating in support of the Argentine occupation. Any ship and any aircraft, whether military or civil, which is found within this zone without authority from the Ministry of Defence in London will be regarded as operating in support of the Illegal occupation and will therefore be regarded as hostile and will be liable to be attacked by British Forces. Example II Although, both multilateral and unilateral sections are legal according to international law, but unilateral sanction can often cause problem because some countries tend to see unilateral sanctions passed by other states as commercial opportunities, a chance to grab markets from state passing the sanction. For example, while the US has maintained a weapons embargo against China, European and Japanese countries sold $15 billion worth of nuclear power technology to China during the period EU and Japan lifted their embargo against China in 1990. Example III Economic sanctions was also imposed on Iraq at the conclusion of the Gulf War to prevent Iraq from using the revenue from its oil to re-arm and particularly to prevent Iraq from building weapons of mass destruction. The sanction was multilateral in nature because the United Nations Security Council with the US and Britain championing the course with other allied nations imposed the sanctions. In addition, the civil wars in Yugoslavia sparked an outcry of international concern and the need for prompt response or action. The United Nations Security Council was forced to impose sanctions which prohibited any commercial activities with Yugoslavia. There was to be no trade, transport, or reloading. The country was also excluded from international sporting events and denied scientific, technical, and cultural support. The US and European Union (EU) imposed similar sanction. Although history has revealed that economic sanctions have a poor track record. Between 1914 and 1990, various countries imposed to achieve their stated objectives in 66 per cent of those cases and were only partially successful in most of the rest. The success ratio for economic sanctions is believed to have fallen to 24 per cent since 1973.

**CONCLUSION** Despite all the forcible means of dispute resolution discussed above, we cannot simply say that they do not work, or do not achieve the desired objectives, and that we should not use them. We have to device a way by which governments whose practices usually do not comply to international standards are attacked in such a way that the innocent civilians or citizens are not made to suffer the consequences of coercive means applied to bring about a change in behaviour.

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