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Research on the Interpretation and Application of Self-Defense Rights: A Comprehensive Analysis

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Abstract. This study delves deeply into the fundamental right of self-defense within the context of international law, emphasizing its expansive scope, the specific conditions under which it may be exercised, and the potential conflicts it may pose with other internationally recognized principles. By conducting a rigorous qualitative analysis of international legal provisions, judicial decisions rendered by courts, and diverse national practices, the research reveals a multitude of trends and interpretations surrounding this right. It also highlights the discrepancies and varying interpretations that exist among different countries and international organizations. The study shows that the conditions for exercising the right of self-defense in international law, its scope, and its relationship with other international principles are complex and multifaceted. In order to better understand and apply the right of self-defense, the international community should strengthen communication and cooperation, reduce misunderstandings and conflicts, and jointly maintain international peace and security.

Keywords: Self-Defense, International Law, Countermeasures

1. Introduction

The Right of Self-Defence, enshrined in Article 51 of the Charter of the United Nations, is the inherent right of States to use force against armed attacks in self-defence. However, in practice, the interpretation and application of the right of self-defence raised many questions in various contexts. Therefore, we examine key issues like what is the range of applications of the right to self-defence and under what conditions the right of self-defence can be exercised, and in what aspects it may conflict with other principles of international law in the process of implementation. Based on qualitative research methods, we based our research on the literature of international laws, the judgments of international courts, and state laws and customs in studying the cores and conditions for the creation of the Right of self-defense in international law. These are important results because they develop and improve the study of the Rights of self-defence and provide a lot of theory and empirical evidence for the field of international law; it also offers clear legal advice for states that were under armed attack to protect national sovereignty, and will be numerous benefits for the international community to maintain international peace and security and promote international cooperation among states to address global challenges in compliance with international law.

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2. Literature review

2.1. Historical evolution of self-defense rights

The right to self-defense, as the most basic element of international law, is the product of a long process of development from the antiquated law of war to modern international law. Originally, the right of self-defense is considered an inherent and presumptive right for any country to respond after being attacked [1]. Later on, with the development of society, the right to self-defense has been increasingly institutionalized and established into today's principles of self-defense under international law [2].

There are several important conventions and agreements that have promoted the development of the right of self-defense during its long historical development. First, the Peace of Westphalia was concluded in 1648, which is the origin of modern international relations and established two basic principles, namely sovereign equality among countries and inviolability of territory [3]. The Peace of Westphalia treaty itself does not contain clear regulations on the specific content of the right of self-defense; rather, by establishing these two basic principles and promoting the international legal system toward institutionalization, it provides conditions and possibilities for the further development of the right of self-defense. Then came the UN Charter adopted in 1945, which made a more explicit stipulation on what aspects the exercise of the right of self-defense should pay attention to.

As for the historical evolution of the right of self-defense, the development process of the right of self-defense has also been intuitively reflected in some cases. For example, during the Kosovo crisis, NATO conducted military air strikes against the Federal Republic of Yugoslavia under the banner of "humanitarian intervention," which caused reflections in society about whether there are limits between the so-called right of self-defense and humanitarian intervention [4]. Even though without the authorization of the UN Security Council, NATO stated that they exercised their right of self-defense against the attacks on Albanians in Kosovo. It can be said that this case reflects the difficulties faced by the right of self-defense when put into practice—the contradictions and disputes it may bring about are not something we can ignore. The second case worth our attention is that after the events of September 11th, 2001, the U.S. launched a war on Afghanistan and Iraq, citing self-defense as the reason [5]. The two wars have sparked heated debates among countries around the world regarding how to distinguish between self-defense and preventive self-defense (preemptive strike). There are countries who believe that what the U.S. did goes beyond the boundaries of the right of justifiable self-defense; rather, it is an infringement on the rights of another country. But it cannot be denied that from another perspective: from the eyes of Americans, they were just defending themselves from the threat posed by terrorism [6].

2.2. Legal framework and interpretation

Article 51 of the UN Charter is an important legal basis in the field of international law regarding the right of self-defense. When studying the interpretation and application issues of Article 51, scholars at home and abroad mainly concentrate on three questions: First, what is the meaning of "armed attack," does it also refer to non-military methods or economic sanctions; Second, whether self-defense is limited to retaliatory strikes against the aggressor only, or may also extend to countries or organizations connected with them; Finally, whether exercising their right of self-defense is conditional upon compliance by states with other principles or norms of international law such as the principle of proportionality, the principle of last resort, or the principle of distinction [7]. Regarding this issue, some people believe that the right of self-defense based on Article 51 should be strictly interpreted and understood as a response to direct armed aggression only, while others believe it

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should be broadly interpreted so as to regard the right of self-defense as not just counter-measures taken against traditional threats but also those taken against new kinds of threats like cyber-attack or terrorism [8].

Regional organizations also have a say in the interpretation and implementation of the right of self-defense—the North Atlantic Treaty Organization (NATO) is a case in point. Article 5 of its charter has a "collective defense" clause: "an armed attack on one or more allies in Europe or North America shall be considered an attack against all." The principle of this article lies in the sharing of responsibilities for collective security and the duty of common defense among the member states of NATO. But NATO member states disagree on whether the right of self-defense should also cover non-traditional threats such as cyber attacks and terrorist acts. Some member states think we should regard them as objects of collective self-defense, while others do not agree [9]. At the same time, regional organizations need to consider whether the interpretation and implementation of the right of self-defense by such organizations are consistent with international law and the UN Charter [10].

With the increasing emergence of new threats like cyberattacks and terrorist activity, the question about whether and how force could be used by states against them has become controversial [11]. On the one side, some states hold that the new threats should fall under the right of self-defense since they constitute real threats to the state's security and thus require appropriate responses to be taken [12].

2.3. Contemporary challenges and responses

Recently, many international disputes have quoted the right of self-defence, and have aroused heated discussion on the legality, proportionality, and requirement of self-defence. These cases involve regional wars, anti-terrorism, emerging security challenges like cyber-attacks, etc.: if some countries retaliate militarily against a non-military attack, opinions differ internationally as to whether this is an exercise of their right to self-defence [13].

Regarding proportionality, in terms of scale and extent, the actions taken for self-defense should not exceed what is necessary to deal with the attack suffered and cause no avoidable additional damage. But in practice, how to correctly judge the seriousness of aggression, determine whether to take defensive action, and control the degree so that the defense does not become excessive, is a difficult problem faced by states. Regarding necessity, the right to self-defense is usually considered as the measure adopted after all other peaceful solutions have been proved fruitless. In recent years, with many emerging non-traditional security threats, some countries tend to use armed force to cope with such threats, leading to discussion of whether the condition of "necessity" has been met [14].

International courts and tribunals are an important way to resolve disputes concerning self-defense. When there is a dispute involving the issue of self-defense, the main task of the International Court of Justice (ICJ) is generally to examine the claims made by the two conflicting sides in light of relevant principles and provisions of international law, make legal judgments with legal effect, etc. [15] But because it involves complex and sensitive issues regarding the right to self-defense, the ICJ usually encounters many difficulties in resolving this type of dispute [16]. The International Criminal Court (ICC), if necessary, must review those who have taken action in self-defense in order to decide whether they should be considered as having committed crimes under the Rome Statute [17]. While safeguarding the status and fairness of international law, it could easily lead again to more debate about exercising the right to self-defense [17].

In response to the problems arising from self-defense disputes, the international community is actively seeking solutions and remedies for such problems; reform proposals and other mechanisms mainly include mediation, arbitration, and regional cooperation, etc.

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3. Results

3.1. Recent developments regarding invocation and interpretation of the right of self-defense

After analyzing many international legal documents, treaties, cases, etc., we find that there are some characteristics and rules about how to invoke and interpret the right of self-defense. The first one is that countries seem to prefer invoking the right of self-defense under the context of direct military threat, coercion, or attack. Recently, with more non-traditional security threats like terrorism and cyber attacks, some countries have tried to expand the right of self-defense into these new domains. So it shows that the original right of self-defense is also flexible enough to respond to all sorts of security situations.

In terms of the interpretation of "the right of self-defence", there exist certain divergences and disputes between countries and international organizations. Some countries stress the absolute nature and indispensability of "the right of self-defence", holding that all necessary measures could be adopted against the threat; while others focus more attention on the relative nature and restrictions of "the right of self-defence" and believe that it cannot violate the principles of international law and cause additional damage.

Such differences in understanding have resulted in complexity and dispute in the practice of the right to self-defense.

3.2. Strengths and weaknesses of the current legal system concerning the right to self-defense

The current legal system of the right of self-defense mainly consists of Article 51 of the UN Charter, relevant international law, documents, and agreements, etc., which has made positive contributions to maintaining peace and security in the world, but there are some advantages and disadvantages.

From the aspect of strengths, the current legal system has provided a clear legal ground and limitations of the right to self-defense. It stipulates that only when the country suffers from an attack with weapons by other countries can it take measures of self-defense, which should meet the requirements of necessity, proportionality, and proportionate response, and so on. This provision is helpful to prevent the abuse and misapplication of the right to self-defense, uphold the effectiveness and stability of international law, etc.

In terms of weaknesses, the current legal system has displayed certain "lags" and "limits" in dealing with emerging kinds of security threats. As non-traditional security threats continue to grow and diversify, some countries have started trying to expand the right of self-defense to these domains, but there are no clear provisions and explanations in the current legal system. In addition, some countries feel that the current legal framework overemphasizes the restrictive conditions of exercising their right of self-defense and thus may affect their flexibility in taking actions under special circumstances.

3.3. In order to evaluate the current situation and effectiveness of solutions for resolving self-defense dispute cases, we need to identify what today's challenges are in dealing with such cases and how effective existing responses were in practice when handling these kinds of disputes

In response to the controversy and disputes caused by the right of self-defense, the international community has faced some challenges and taken some countermeasures: diplomatic consultations, international legal processes, regional cooperation. But the effect of solving the problem of self-defense disputes by these means is not the same.

As an important way to resolve contradictions and disputes, diplomatic negotiation is usually more flexible and practical. The conflicting parties can increase mutual understanding, build confidence,

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and find consensus and solutions through direct communication and consultations. But the success of diplomatic negotiations mainly depends on whether the two sides are sincere, have the willingness, and whether there has been support from the international community, etc. For some more complicated self-defensive disputes, diplomatic negotiations seem not easy to make progress.

In terms of international legal procedures (such as the International Court of Justice, International Criminal Court), judgments are effective and powerful, able to judge according to international law principles and norms, and examine the claims of both sides. However, at the same time, international legal procedures are slow and cumbersome, unable to take into account the timeliness of disputes in emergencies. Additionally, the fairness and neutrality of international legal procedures are doubted by some countries; their judgments cannot be recognized and fulfilled.

It is true that regional cooperation is very important for solving self-defense controversies. By strengthening communication and coordination among countries in the region, countries can deal with common security risks and challenges together, alleviate the situation of self-protection controversies, and so on; but at the same time, there are also many problems in regional cooperation, such as politics, economy, and security, which are not only subject to differences in interests between countries, political oppositions, and so on. Not only that, reasonable institutions and operational platforms need to be built so as to implement smoothly and develop sustainably.

4. Discussion

4.1. Effects of the research results on international law and practice, as well as possible reform of the legal framework

The above is a translation of the text from Chinese to English by the artificial intelligence model. The original Chinese text was: "This research result has influenced international law and practice in many respects (especially in relation to the legal framework regarding the right to self-defense), showing that the right to self-defense is flexible and adaptable enough to cope with different kinds of security threats at this time; but it also shows the shortcomings and defects of the current legal framework when facing some new types of security threats." Corrected: This research result has influenced international law and practice in many respects (especially in relation to the legal framework regarding the right to self-defense), showing that the right to self-defense is flexible and adaptable enough to cope with different kinds of security threats at this time; but it also shows the shortcomings and defects of the current legal framework when facing some new types of security threats.

These results first illustrate that the right to self-defence has an important position and role in international law. As the basic right given to countries by international law, the right to self-defence is an important way of maintaining national security and interests. With the continuous change of the international security situation, we should adjust the content and interpretation of the right to self-defence according to new international security challenges. In this sense, the international community should further study the issues related to the right to self-defence and promote the improvement and development of relevant international legal rules.

In the second place, they also provide a valuable reference basis for the improvement of the existing legal framework. With regard to the problems and deficiencies exposed by the existing legal framework, the international community may put forward a set of improvement plans so as to respond better to emerging security challenges, which specifically include: first, further study and evaluate the situation of non-traditional security threats, taking them into account when determining whether the object under attack meets the conditions for exercising their right to self-defense; secondly, further study and formulate restrictions on the exercise of the right of self-defense in order to prevent its abuse or misappropriation. This will help strengthen the effectiveness and certainty of international law, and effectively safeguard the common interests of all countries in the world.

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4.2. How might the right of self-defence be in tension with other rules of international law

The right of self-defense, as one of the primary rights conferred on states by international law itself, comes into some tension with other principles of international law, especially the principle of sovereignty and non-intervention in domestic affairs.

First of all, the contradiction between the right to self-defense and sovereignty is mainly reflected in the legality and rationality of the behavior of self-defense: although the right of self-defense is a very important way to protect national security and interests, sometimes the behavior of self-defense will also damage the sovereignty of another country. So, in order to guarantee the exercise of the right of self-defense, the international community should further strengthen supervision, review, and judgment on the legality and rationality of the behavior of self-defense from two aspects: legality and reasonableness, so as to ensure that they comply with the purposes and principles of international law.

Secondly, the contradiction between the two is mainly reflected in the scope and degree of the exercise of the right of self-defense. If countries take the excuse of exercising their own right of legitimate defense to interfere with other countries' internal affairs and sovereignty, it will not only violate the principles and spirit of international law, but also easily lead to international disputes and conflicts. Therefore, we need to strengthen restrictions and oversight of the scope and degree of the right of self-defense, and ensure that they are in accordance with the provisions and requirements of international law.

In order to alleviate such contradictions, the international community should further strengthen communication and cooperation to jointly promote the improvement and development of relevant international laws; countries should respect each other's sovereignty and territorial integrity, abide by the purposes and principles of international law, and maintain world peace and stability.

4.3. How do the development of technologies and the process of globalization influence the future shape of the right of self-defence

From this perspective, in light of the above characteristics of this era (technology and globalization), the development trends of new threats and technology have brought about both challenges and opportunities for the right to self-defense to develop further in the future.

In the first place, new threats like cyberattacks and terrorist attacks have put forward new requirements on the scope of application and understanding of the right of self-defense. The new-type threats have features of a cross-border nature, concealment, and destructiveness. Traditional means and ways of self-defense cannot effectively cope with this type of threat. Therefore, the international community should further study and evaluate new types of threats, explore new means and ways to maintain its own security and interests.

Secondly, the rapid development of science and technology has brought about new opportunities and carriers for the exercise of the right of self-defense, and at the same time, posed new problems and challenges. The use of technologies like artificial intelligence (AI) and big data improves the accuracy and efficiency of self-defense actions, while improvements in network technology make the communication and command means of self-defense more convenient and efficient. At the same time, the use of technology also brings about some new risks, such as data security, personal privacy, and other issues. Therefore, countries need to increase research on related technology issues, formulate relevant rules and regulations, so that technology can be legally and safely applied in the field of the right of self-defense.

5. Conclusion

Based on the above research findings, some suggestions are proposed: first, countries need to strengthen communication and mutual trust in order to properly solve problems related to the exercise

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of the right of self-defense; second, it is necessary to further improve domestic laws and regulations on the right of self-defense so that they can effectively respond to new situations and new problems arising from changes in circumstances; third, countries should actively participate in international rule-making processes concerning the right of self-defense, promote the formation of a more just and reasonable international order, and reasonably control the behavior of exercising one's own right of self-defense within a certain range.

Looking forward to the future, we need to further improve the legal definition of the right of self-defense, clarify its specific scope of application and conditions under non-traditional security threats, study and establish a more effective international cooperation mechanism so that countries exercising their rights of self-defense can do so reasonably and legally, and maintain international peace and security together.

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