



The Methods of Hard Power and Soft Power in International Law

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Abstract: *After the catastrophic and devastating consequences of World War II, which shook the whole world, the UN was established, one of the main goals of which was to establish the legal framework of the basic principles for the use of military force and military intervention. Namely, for the preservation of collective security, the Charter of the organization itself and numerous conventions strictly prohibit war and the use of force between the subjects of international law. In that context, various steps have been taken and binding prohibitions on the use of force have been introduced. The motive of the research consists of the introduced mechanisms for the preservation of collective security. Namely, the paper tries to analyze the legal framework of the concepts of military power and soft power. The paper tries to investigate (the differences between) the concepts of power, conflict, military power and soft power with their methods and mechanisms provided by international law.*

1. INTRODUCTION

In order to ensure peace, which is the basis of the entire order, the regulations of international law regarding the use of military force or violence are very important. The moment of the military in the historical development of the subject is important. In order to prevent casualties during the war and to prevent the unstable situation that may occur, a legal basis was needed for the existence of diplomatic and resolving methods in a peaceful way based on the law, instead of the use of force (Gligorova et al., 2020, pp. 9-28). Today in international law, the use of force or the threat of force to resolve disputes is prohibited (Frckoski et al., 2012, pp. 575-576). After the conclusion of the Versailles Peace Treaty, it was noted that there was no legal basis and framework in relation to the legal norm at the level of international law, which prohibits the use of force in the sense of ensuring peace, that is, resolving disputes (Acer & Kaya, 2011, pp. 89-90). In addition to the League of Nations agreement, the Simpson Doctrine and the Briand-Kellogg Agreement are some other documents that can be given as historical examples regarding the prohibition of the use of force and which allow important steps to be taken (Evans, 2010, pp. 134-136).

The UN, which was established after World War II, adopted important principles for the use of military force, that is, the use of force in the international community. The term "threat of force or use of force" used in the founding treaty defines the use of force in international law. The definition of this term in the context of international relations is discussed in Article 2 (4) of the Statute (Charter) of the UN, the Prohibition of Aggression, the Declaration on Friendly Relations between States (*General Assembly Resolution No. 2625*), and the Declaration on the Non-Use of force (*General Assembly Resolution No. 4222*).

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The effort to create a barrier in the international arena for the use of force was placed on a legal basis by international conventions, and in case of conflicts, peaceful solutions were offered as a mechanism against the use of force. In that context, various international law steps have been taken and binding prohibitions on the use of force have been introduced.

2. METHODOLOGY

Relevant scientific literature was searched in scientific books, scientific papers in printed versions and on the online databases Google Scholar, Researchgate and Dergipark (journals of EBSCO, SCOPUS, WEB OF SCIENCE indexed) by keywords: "hard and soft power", "intervention in international law" and "collective security". The following elimination criteria were used in the selection of publications: (a) papers written in English, Turkish and other languages, (b) papers published only in the period from 2008 to 2023, and (c) papers examining the use of force in international law and military humanitarian law. In addition to meeting the elimination criteria, over 30 scientific papers were retrieved from the aforementioned online databases. All these books and scientific works are in different languages, for example; in English, Macedonian, Turkish, etc. In that way, the references and the quality of this scientific research are enriched.

3. THEORETICAL FRAMEWORK

(A) Hard power (intervention, self-defense) - the concept of power and its use, especially when dealing with interstate relations, is seen to include various mechanisms, the most important being the use of military force (aggression), the act of revenge, reciprocity, intervention and self-defense. From that point of view, keeping in mind our thematic framework, we will briefly dwell on the conceptual explanations of intervention and self-defense.

Although there are different definitions of the term hard power, one of the more important thoughts is the explanation that hard power represents the ability to coerce and grow out of a country's military and economic might. Soft power arises from the attractiveness of a country's culture, political ideals, and policies (Ilgen, 2016, pp. 26-27).

The draft declaration on the rights and duties of states in General Assembly resolution 375 adopted in 1949 (<https://documents-dds-ny.un.org/doc/resolution/gen/nr0/051/94/pdf/nr005194.pdf?>) and the "declaration on the inadmissibility of intervention in internal affairs" of the general assembly adopted in 1965 and no. 2131 "*states and the protection of their independence and sovereignty*" are other documents that support non-interference in the internal affairs of states and explain the issue (<https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/218/94/PDF/NR021894.pdf?>). In these documents, it is stated that each state has full authority within the limits of its sovereignty and that no state has the right to intervene in this vast area of sovereignty and internal affairs, regardless of the subject. One section states that such an intervention violates the prohibition on the use of force against the sovereignty and integrity of the state clearly stated in Article 2(4) of the UN Charter, while others say that it is possible according to Article 2(7) of the UN agreement to intervene in the realization of universal human rights.

The most important point to consider is that it is necessary to be careful not to go beyond the actions taken to prevent the violation of human rights of a universal character. Especially in a century when it is already the fourth generation of human rights, the basic ones should be far from being violated and exceeded on any basis (Nuredin, 2023, pp. 9-23).

The right to self-defense is stated in Article 51 of the UN Charter; Namely, it is stated that: nothing in this Charter shall impair the inherent right of individual or collective self-defense in the event of an armed attack against a Member of the United Nations, until the Security Council has taken the necessary measures to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately forwarded to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under this Charter to take at any time any action it believes necessary to maintain or restore "international peace and security"; it is not considered a violation of Article 2(4), but is characterized as the defense of the attacked state until the intervention of the UN Security Council.

In order for an action to qualify as self-defense, the actions that give rise to the right of self-defense were listed in the 1947 UN General Assembly Aggression Resolution (General Assembly (1947), 3314 (XXIX) Definition of Aggression, <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/739/16/IMG/NR073916.pdf?>).

As a second condition of the concept of self-defense, it is necessary to act within the framework of the principle of proportionality, a principle that states that there are limits to self-defense. This limitation emphasizes the necessity of taking action that does not exceed the limit and purpose of self-defense and is proportionate to the attack. In that direction, it is stated that with the elimination of the act of aggression, self-defense should also be eliminated, and if it continues, it will not be considered self-defense (Özkan, 2002, p. 244).

Following the principle of proportionality, the defending state is obliged to inform the Security Council of the details of the actions to be taken and not to exceed the specified limits. The main point is that violence between attack and self-defense should be proportionate and not outweigh each other and that civilian areas should not be targeted (Aksoy, 2016, p. 3).

As a third condition, in the event of an attack on any state, all other methods must be exhausted to be able to defend oneself by force. In addition to these conditions, another issue is that the details of this counter-action, i.e. self-defense and the measures to be taken by the state must be forwarded to the UN Security Council. Although this obligation is enacted by law, it is seen that this right is not respected in practice. Although the Court of Justice maintains that the UN system should be applied to clarify the issue, it states that there is no obligation to report when considering customary law (Alexandrov, 1996, pp. 146-149).

(B) Soft power - the importance of which especially began to increase after the Cold War; it started to be used intensively, especially by Western countries. With the increase in technological development in today's world, the formation of the phenomenon of globalization has distanced states from military power and states have begun to fall into the attraction of "soft power". In this way, the idea began to prevail that problems can be solved by other methods and that international law can be applied without the need for military and economic sanctions (Bilener, 2019, p. 242).

According to Joseph Nye's definition, soft power is an approach that aims to solve problems using a state's cultural, historical and diplomatic influence. Nye explains this as a type of power that can be seen as an alternative to the use of force and in which more diplomatic methods are used rather than coercion in the use of force (Nye, 2011, p. 84). Mechanisms of soft power

play a major role when it comes to the responsibility of states before international law, respecting international agreements regarding their competences and maintaining peace and stability by avoiding aggression and hard power (Hoca, 2020, pp. 109-125).

Especially in today's world, the number of countries using soft power is quite high. For example, the *Monocle Soft Power Survey* in 2014 presented the USA as the most influential country implementing soft power in its foreign policy, while Germany ranks second; countries such as the UK, Japan, Canada, Switzerland, Australia, and even France are some of the top ten countries that effectively use "soft power" as a foreign policy tool in international relations.

States apply methods of "*foreign aid*", "*cultural diplomacy*" and "*public diplomacy*" in the application of "soft power". By using such methods, states aim to solve problems and protect sovereignty within the method of persuasion (Snidal, 2000, p. 430). Soft power, which was the theme of the UN summit in 2005, was accepted by the decision of the General Assembly and took its place in international law (Shaffer & Pollack, 2011). States, especially with the help of institutions such as non-governmental organizations, put the phenomenon of soft power into action in the field of international relations (Nye, 2004, pp. 10-11).

Those who approach soft power with a critical attitude argue that it does not have enough effect by considering soft power in a narrow scope. If we look at the application, it can be said that soft power has a delicate balance. The policies pursued by states determine whether the balance of power between states will be realized within the framework of hard or soft power. On the other hand, the popularity of states in foreign policy practices is also in an important position in terms of their tendency towards soft power and their application among other states. Soft power should be more useful than hard power, both in internal legal order and in external international relations (Korbayram, 2021, pp. 93-108).

In "soft law (power)" it is often possible to find rules that serve to resolve disagreements between the parties. A specific type of this "soft law" are contracts that are expected to come into force. So, multilateral contracts often remain in this state for many years. Their rules are taken into account when interpreting the norms of international law, they influence the practice of states and even national legislation. The report of the Secretary-General of the International Labor Organization on the conventions of this organization notes that, although they have not been ratified, "they will be able to influence legislation and national practice" (Sulaymanov, 2022, pp. 1-4).

As a result, the positive sides of instruments for soft law or soft power can be separated; as already pointed out in various scientific papers, those instruments can offer significant neutralizing advantages in relation to hard law because they are cheaper to negotiate and have smaller "costs of sovereignty". Moreover, they provide more flexibility for states to deal with uncertainty and learn over time. Thus, they allow states to be more ambitious and engage in "deeper" cooperation than they would if they had to worry about enforcement (Shaffer & Pollack, 2011, pp. 1147-1241).

4. FUTURE RESEARCH DIRECTIONS

Countries that have international power, such as the United States, Russia, or China, use the concept of self-defense, which is stated as a right in the UN treaty and the NATO pact, for their own interests on the international stage and to prevent the intervention of the UN within the framework of the security council, with the right of veto. It can be pointed out that such legal

guidance from personal interests overshadows the applicability and credibility of international law. As a debate topic is the hypothesis that the system of the Security Council is easily blocked, and for those reasons, alternative solutions are possible either in terms of voting or in terms of the powers of the Council being transferred to the General Assembly.

As the second subject of discussion, it should be in the form of serious control mechanisms and penal sanctions. In other words, the UN is the hope for the countries that are exposed to it in terms of the use of force, and therefore, the UN must determine mechanisms such as the provision of preventive control mechanisms, especially in the use of hard power.

5. CONCLUSION

Through the method of persuasion in international relations, states are guided in a cultural, diplomatic and public way. Considering that soft power is widely used in modern diplomacy and international law, it can be said that it is an important step in terms of maintaining order and not violating human rights against the rules of international law and the Geneva Conventions. Although some researchers question the effectiveness of soft power, the change of states from the use of force to the phenomenon of soft power can be considered as one of the most productive contributions to peace, security and respect of other states in the global order.

Finally, for the correct application of soft power, it is necessary that the structure of the UN be reformed, that is, especially in the field of maintaining peace and collective security. As a basic entity responsible for peace and security, the Security Council in the conditions of the Second World War and the current world differs in many aspects, both technologically and economically, as well as in international relations and the concept of security. So, reforms are needed in the structure and competences and an active conclusion of the General Assembly with active participation in cases of aggression, that is, preventive measures using soft law mechanisms.

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