

SELF-DEFENSE AND THE EAST-WEST RIVALRY IN THE THIRD WORLD

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The establishment of large nuclear arsenals by the United States and the Soviet Union since 1945 has instilled a sense of apprehension in both states about the outcome of a direct military confrontation between them. Threatened with the possibility of complete annihilation, the superpowers have made concerted efforts to abstain from the use of force in their bilateral relations with one another. Beyond the direct U.S.-Soviet relationship, these efforts have proven most successful in the industrialized states of Europe and the Far East. U.S.-Soviet relations have remained stable in these areas over the past four decades primarily because Washington and Moscow have committed themselves to using nuclear force to protect their vital global security interests. This commitment has produced a system of stable security alignments between each superpower and its industrialized allies; in effect, this makes the outbreak of war among any of these states entirely too dangerous to risk.¹

Discouraged by the prospects for changing the status quo in the industrialized world, American and Soviet strategists have adopted a substantially different approach to the East-West rivalry in the non-aligned states of the Third World. Soviet Affairs specialist Alvin Z. Rubenstein believes that the fragile security alliances which exist in these states are primarily responsible for the relatively low-cost, low-risk policies adopted by the superpowers. He discusses how the nature of these alliances affects U.S. and Soviet foreign policy in *Soviet Foreign Policy Since World War II: Imperial and Global*. Rubenstein writes:

Whereas Europe and the Far East have relatively stable political and military constellations that coincide with established territorial boundaries and spheres of influence shielded by security agreements, Southern Asia, the Middle East, and sub-Saharan Africa** are characterized by transient alliances and systematic instability and so have attracted superpower attention and rivalry. Gains or setbacks in these areas of contention are not likely to have a significant effect on the fundamental balance of power in the short run.²

Thus, the opportunity to manipulate the regional balance of power in those areas which are of marginal importance to the overall global balance has encouraged the superpowers to exercise fewer restrictions on their conventional use of force in the Third World. On those occasions when they do resort to force, the Americans and the Soviets consistently maintain that they are doing so for defensive purposes only. Consequently, this paper will analyze the contemporary doctrine of self-defense as it relates to the superpower use of force in the non-aligned states.

The right of self-defense in international law has traditionally been categorized as one component of the larger self-help doctrine. In this context, the defensive use of force can be interpreted as one type of sanction available to the individual state whose interests have been violated by the delictual conduct of another state.³ According to D.W. Bowett, it is the precondition of international delinquency on the part of the state against which force is directed

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**Due to recent events in Central America, this area should be included as well.

¹Quincy Wright, "A Study of War", (Chicago: The University of Chicago Press, 1964), p. 429.

²Alvin Z. Rubenstein, "Soviet Foreign Policy Since World War II: Imperial and Global", (Boston: Little, Brown and Company, Inc., 1981), p. 214.

³Han Kelsen, "Principals of International Law", (New York: Holt, Rinehart and Winston, Inc., 1966), p. 13.

that comprises the heart of the self-defense concept. "The essence of self-defense," Bowett states, "is a wrong done, a breach of a legal duty owed to the state acting in self-defense The breach of duty violates a substantive right, for example, the right of territorial integrity, and gives rise to the right of self-defense."⁴ This stipulation is also a pre-requisite for most of the other uses of force that have historically been included in the self-help doctrine. The most common examples of these are reprisals, intervention, and those actions taken to compel another state to submit a dispute to an international body, such as the International Court of Justice, for judicial settlement. In the latter case, if a decision has already been rendered, self-help can also be applied to enforce the terms of the international body's decision.⁵

Though all of these various forms of self-help are considered to be responses to an international delict, self-defense can be distinguished further by its intent. Its purpose is "to protect essential rights from irreparable harm in circumstances in which alternative methods of protection are unavailable; its function is to preserve the status quo."⁶ This objective is in marked contrast to the purposes of the other forms of self-help which seek to impose more remedial or repressive measures on the delinquent state.

Another form of self-help which recognizes the individual state's right to use force is the extra-legal concept of self-preservation. However, unlike the previous forms of self-help already discussed, self-preservation is not dependent upon a prior violation of the law. It is a practice, predominantly based on moral considerations, that enables a state to suspend all norms of international law when its very existence is being threatened.⁷ This unlimited ability to disregard all constraints on the use of force, if such action is deemed necessary for the survival of the state, provides the most significant distinction between self-preservation and self-defense. More importantly, since the "right" of self-preservation cannot be defined in purely legal terms, the trend in modern international law has been to recognize it as an instinctive right of every state, but not as a legal doctrine. If it were allowed to exist as a legal right, every state would be forced to "admit, suffer and endure every violation done to one another in self-preservation."⁸

Theoretically, self-defense can be easily distinguished from the other uses of force most commonly associated with the self-help doctrine on the basis of its limited objective. It is designed to protect territory or values currently held as opposed to destroying the values or territory of the delinquent state.⁹ As a legal concept, it can be separated from self-preservation because it does not subordinate the law to moral principals. Yet, the function and scope of self-defense vis-a-vis the other uses of force is largely dependent upon the nature of the legal system in which it operates. In a decentralized system, where the authority to apply the law is delegated to the individual members of the community, each member is recognized as the sole judge of determining when its interests have been violated and how it will respond. Since there is no central organ capable of regulating the use of force under these conditions, self-defense is perceived as a basic, fundamental right of every state. As

⁴D. W. Bowett, "Self-Defense in International Law", (Manchester: The University Press, 1958), p. 9.

⁵Ibid. pp. 11-19

⁶Schwarzenberger, "Manual of International Law", 3rd ed.

⁷Kelsen, "Principals of International Law", p. 59.

⁸Hersh Lauterpacht ed., "International Law by L. Oppenheim", (New York: David McKay Company, Inc., 1965), p. 297.

⁹Myres S. McDougal and Florentino, "Law and Minimum Public World Order", (New Haven: Yale University Press, 1961), p. 218.

the system matures and the authority to use force is transferred to a central organ, given the responsibility of protecting its individual members' rights against violations, self-defense becomes an exceptional right, subject to review by the collective organs of the community.¹⁰

The absence of a centralized force monopoly in the international community before the twentieth century resulted in a highly decentralized system of law which recognized self-help as the principal means of protecting state interests. This virtually unlimited right of self-help, combined with the right to use war as an instrument of foreign policy, created a number of problems for interpreting self-defense. Bowett provides an excellent example of the complexities involved in distinguishing self-defense from the other uses of force by discussing the relationship of this right to the legitimate right of war. He observes: "The paradox of the positionist doctrine was that any state, by its own election to treat a 'pacifist' use of force in self-defense as an act of war bringing about war *de jure*, could transform the legal privilege of self-defense into conduct legally indistinguishable from its own."¹¹ Yet, amidst the considerable amount of ambiguity that existed, a number of principals emerged which established the foundation for the contemporary self-defense doctrine.

One of the most important contributions to the modern definition of self-defense was made by the natural law proponent and theologian St. Thomas Aquinas. Aquinas was the first writer to explicitly stipulate that the right of self-defense is only legitimate when the state it is directed against bears the burden of fault.¹² This stipulation has become the most essential element for the defensive use of force today. Another important requirement which has evolved through customary state practice is the doctrine of proportionality. This doctrine confines the response of the state acting in self-defense to those measures that are necessary for the protection of its sovereignty.¹³ The practice of proportional response has been adopted by states to ensure that the actions taken in self defense do not exceed what is necessary to protect those substantive rights that are threatened. In addition to these two basic guidelines, the *Caroline Case* of 1837¹⁴ established the first specific criteria for determining when a state could resort to force in self-defense. The legal issue involved in the case dealt with the question of whether or not the British government was exercising a legitimate right when it seized the steamer *Caroline* and set it adrift over Niagara Falls. The British claimed that since the *Caroline* was being used by a small band of Americans to transport men and weapons from the U.S. into Canada during a time of rebellion—without any effort on the part of the U.S. government to prevent such action—they were acting within their right of self-defense. In response to the British government's claim, U.S. Secretary of State Daniel Webster established the requirements that have become mandatory for the exercise of self-defense under the present system of law. Webster argued that the right of self-defense was legitimate only when there was a "necessity for self-defense, instant and overwhelming, leaving no choice of means and no moment for deliberation."¹⁵ He went on to reaffirm the doctrine of proportionality by stating that the act itself must consist of "nothing unreasonable, or excessive, since the act justified by the necessity of self-defense must be limited by that necessity and kept clearly within it."¹⁶

¹⁰Bowett, "Self-Defense in International Law", pp. 3-4.

¹¹*Ibid.* p. 118.

¹²De la Briere, "Le Droit de Guerre Juste", (Paris, 1938), p. 32.

¹³*Ibid.* pp. 269-70.

¹⁴James Leslie Brierly, "The Law of Nations", (New York: Oxford University Press, 1963), p. 405.

¹⁵*Ibid.* p. 406.

¹⁶*Ibid.* p. 406.

The first substantive achievement of the twentieth century that helped to place these principals in the proper context was the signing of the Kellogg-Briand Pact in 1928.¹⁷ The Treaty itself did nothing to restrict the customary right of self-defense. In fact, U.S. Secretary of State Frank B. Kellogg made it undoubtedly clear that no treaty could impair the individual state's right to defend its territory against attack or invasion.¹⁸ However, by condemning the use of war as an instrument of foreign policy, the Kellogg-Briand Pact eliminated one of the most problematical uses of force that has previously been allotted to the members of the international community.¹⁹

Unfortunately, the restrictive use of the term "war" limited the overall effectiveness of the Treaty. For example, within four years of the signing of the Pact, there were at least three instances in which the use of force by an individual state could have been viewed as contrary to the spirit of Kellogg-Briand. These were the outbreak of hostilities without a declaration of war in 1929 between Russia and China over the Chinese Eastern Railway, the Japanese occupation of Manchuria in 1931 and Peru's invasion of the Columbian province of Leticia in 1932. Yet, because the Treaty did not include those uses of force that fell short of an actual declaration of war, the states involved could legitimately claim that they had not violated their obligations.

When the United Nations Charter was written in 1945, its authors enhanced the principals of the Kellogg-Briand Pact by using the all-inclusive term "the use of force" to outlaw the commission of any offensive acts by the state. Article 2, paragraph 4 of the Charter requires all members to "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."²⁰ The Charter accomplished an additional goal in regulating the use of force by creating a central organ, known as the Security Council, that was given the primary responsibility for maintaining international peace and security. These two achievements have succeeded in eliminating many forms of self-help that had previously been available to the state.²¹ In fact, the only form of self-help that continues to maintain legitimacy under the present system of law is the right of self-defense.

The exclusion of self-defense from the prohibitions of Article 2, paragraph 4 can be found in Article 51 of the Charter which declares:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense 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-defense 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.²²

Though this article does not deny the right of self-defense, the impact of the Charter upon the use of force can be illustrated once again by the Security Council's authority to review

¹⁷Burns H. Weston, Richard A. Falk and Anthony A. D'Amato ed., "Basic Documents in International Law and World Order", (St. Paul: West Publishing Company, 1980), p. 93.

¹⁸Julius Stone, "Aggression and World Order" (Berkeley: University of California Press, 1958), p. 32.

¹⁹Ante, p. 5.

²⁰Weston, Falk and D'Amato, "Basic Documents in International Law and World Order", p. 8.

²¹Bowett, "Self-Defense in International Law", pp. 11-19. Also see Pinkard, "Self-Help, Self-Defense, and Self-Preservation in International Law", *Towson State Journal of International Affairs*, Vol. xx, No. 2, (1966) pp. 63-76.

²²Ibid, p. 14.

and respond to any defensive actions that may be taken by a state. This stipulation has transformed self-defense from a basic, fundamental right into an exceptional right open to review by the collective organ of the community.

If American and Soviet actions in the non-aligned states are to be interpreted as defensive uses of force, they must conform to the principals embodied in Article 2, paragraph 4 and Article 51 of the U.N. Charter. Not surprisingly, both sides argue that they are acting in accordance with the Charter because their rights are being threatened by the ideological differences which separate East from West. Since ideology has become the primary justification for the superpowers' use of force in the Third World, any analysis of the legality of these acts should begin with the origins of the Cold War. Unfortunately, there is no definitive theory as to how the Cold War began. As a result, a number of contending hypotheses have emerged.²³

The oldest hypothesis dates from the nineteenth century and the writings of Alexis de Tocqueville, who as early as 1835 predicted that the U.S. and the U.S.S.R. would become natural enemies. De Tocqueville based this prediction on his assessment of the two states' potential for becoming great powers. He believed that the benefits of possessing a large territory and an abundance of natural resources would give the American and Russian people so much power that each would eventually "hold in its hands the destinies of half of mankind."²⁴ Once this status was reached, the two powers would instinctively adopt those classical patterns of behavior which have dictated all great power relations throughout history—that is, each state would view actions taken by the other as an attempt to tilt the balance of power against it. By interpreting events in this manner, the two states would find themselves entangled in an unending series of confrontations over divergent national interests.

The second hypothesis suggests that while the American-Soviet rivalry was not inevitable, it became an unavoidable consequence of the communist takeover in Russia. Proponents of this thesis argue that the capitalist and communist systems are so diametrically opposed that they will never exist in harmony. For this reason, they claim that relations between the United States and the Soviet Union have always been tense and will continue to be so in the future. According to Charles W. Kegley and Eugene R. Wittkopf, if the Cold War is viewed in this context, it is merely "an extension of the suspicions, distrust, and repugnance that the two states traditionally have felt for each other's professed way of life."²⁵

The final view maintains that the Cold War was a product of the events which took place immediately following World War II. These analysts believe that there was a genuine spirit of cooperation between Washington and Moscow during the war. However, once the Axis powers were defeated, the cordial wartime alliance rapidly disintegrated. One group claims that this breakdown in relations was the result of President Roosevelt's death, because his successor Harry Truman adopted an openly belligerent posture towards the Soviet Union, thereby destroying any hope for American-Soviet cooperation in the post-war era. The other group attributes the breakdown to misunderstanding on both sides about the intentions of the other. George F. Kennan, an authority on Soviet-American relations, and U.S. Ambassador in Moscow during the early years of the Cold War, has given many examples of this. He writes:

²³Charles W. Kegley Jr. and Eugene R. Wittkopf, "American Foreign Policy: Pattern and Process" (New York: St. Martin's Press, 1982) pp. 50–56.

²⁴Ibid, p. 50.

²⁵Ibid, p. 50.

The Marshall Plan, preparations for the setting up of a West German government, and the first moves toward the establishment of NATO were taken in Moscow as the beginnings of a campaign to deprive the Soviet Union of the fruits of its victory over Germany. The Soviet crackdown in Czechoslovakia (1948) and the mounting of the Berlin blockade, both essentially defensive . . . reactions to these Western moves, were then misread on the Western side. Shortly thereafter, there came the crisis of military force in civil combat to its own advantage, by way of reaction to the American decision to establish a permanent military presence in Japan, was read in Washington as the beginning of the final Soviet push for world conquest; whereas the active American military response provoked by this move, appeared in Moscow . . . as a threat to the Soviet position in both Manchuria and in eastern Siberia.²⁶

The hypothetical origins of the Cold War seemed relatively unimportant by 1947, because the animosities which existed on both sides of the East-West rivalry had become so deeply embedded that conciliation was considered to be virtually impossible. Under these conditions, each superpower began to develop long-term strategies for protecting its global interests from the "expansionist" or "imperialist" activities of the other.

The American approach to protecting its interests against the communist threat was founded in Kennan's analysis of the Soviet leadership and its objectives.²⁷ His concern with Soviet postwar intentions was highlighted by Stalin's speech of February 1946, in which the Soviet Secretary urged the people to maintain their revolutionary zeal in preparation for the inevitable conflict between the communist and capitalist states. A few months after this speech, Kennan sent his famous "long-telegram" to Washington warning U.S. officials of the potential dangers of Soviet foreign policy. The telegram referred to communism as:

. . . a political force committed fanatically to the belief that with (the) U.S. there can be no permanent *modus vivendi*; that it is desirable and necessary that the internal harmony of our society be disrupted, our traditional way of life be destroyed, the international authority of our state be broken, if Soviet power is to be secure.²⁸

This evaluation of Soviet global objectives was also the basis for Kennan's equally famous "X" article published by "Foreign Affairs" in 1947. Entitled "The Sources of Soviet Conduct," the article surmised that Soviet leaders would never feel secure in their political power because they were unsure of their ability to protect it against domestic and foreign threats. Their insecurity would in turn lead to the adoption of an anti-American policy that could possibly become hostile. He concluded that the seriousness of the threat should impress U.S. officials with the immediate need to diffuse this potentially harmful situation by forcing the Soviet leadership to tone down, and hopefully abandon, its vehement anti-American stance.²⁹ In putting forth his opinion as to how this goal could be achieved, Kennan created a theory that became the cornerstone of American foreign policy vis-a-vis the Soviet Union. His proposal was "a long-term, patient but firm and vigilant containment of Russian expansive tendencies."³⁰

The containment policy received a great amount of notoriety in Washington and quickly became the official U.S. policy—although somewhat altered from Kennan's original intentions.³¹ Communism was defined as an expansionist force that had to be contained since

²⁶George F. Kenan, "The United States and the Soviet Union, 1917-1976", *Foreign Affairs* 54 (July, 1977) pp. 683-684.

²⁷*Ibid.*, p. 59.

²⁸*Ibid.*, p. 59.

²⁹Kennan ("X"), "The Sources of Soviet Conduct," *Foreign Affairs* 25 (July, 1947), pp. 566-582.

³⁰*Ibid.*

³¹Kennan, "Memoirs", (Boston: Little, Brown, 1967), p. 361.

it was committed to the destruction of American international prestige. Consequently, the Truman Doctrine was established as a means of protecting U.S. global interests from the dangers of international communism. The Doctrine proclaimed: "The free peoples of the world look to us for support in maintaining their freedoms. If we falter in our leadership, we may endanger the peace of the world—and we shall surely endanger the welfare of our nation."³² The purpose of President Truman's declaration was to inform Moscow that the U.S. was prepared to take any steps necessary, be they political, economic or military, to support non-communist governments throughout the world.³³ The most significant result of this doctrine was the creation of the Marshall Plan in 1947, which provided the Western European democracies with an all-encompassing economic program to facilitate the reconstruction of their war-ravaged countries.

The Soviet leadership interpreted the containment policy as a threat to its own strategic interests. Thus, in retaliation for U.S. actions, Stalin established a closed ideological and political system that made the separation between the wartime allies complete.³⁴ The justifications for the creation of this system were explained by one of the leading members of the Politburo, Andrei Zhdanov, at the inaugural meeting of the Cominform (Communist Information Bureau) in September of 1947. While discussing the "New Aspects of World Conflict" since the Second World War, Zhdanov claimed that the world had been divided into two hostile camps. One camp consisted of the "freedom-loving democracies" led by the Soviet Union, and the other camp was composed of the "imperialistic war mongers" and "capitalist aggressors" led by the United States. He concluded that the latter camp wanted to create another imperialist war to defeat the cause of socialism, and was willing to support any anti-democratic force in pursuit of this objective.³⁵ Therefore, it was the duty of all communists to "head the resistance to the plans of imperialist expansion and aggression along every line—state, economic and ideological."³⁶

The preoccupation of the superpowers with events in Europe was extremely evident during the early stages of the Cold War, as each side attempted to establish its dominance in those areas which were considered vital to its own security needs. After the initial period of adjustment, both the Americans and the Soviets realized that they would face a serious and possibly fatal challenge from their adversary if either one of them attempted to alter the balance of power that had been created by the division of Eastern and Western Europe. This harsh reality forced officials from both states to devise alternative methods by which they could continue the search for increased global influence. The newly emerging states in Africa, Asia and the Middle East gave them an opportunity to do just that.

The increased interest of the Soviet Union in the non-aligned states was precipitated by two major foreign policy concerns.³⁷ First and foremost, the Kremlin wanted to continue its policy of unrelenting hostility toward Western initiatives. Yet Moscow was reluctant to explore the potentially dangerous consequences posed by a direct confrontation with the U.S. in Europe. Robert C. Horn discusses this predicament, and how the Soviet leadership dealt with it in *Soviet-Indian Relations: Issues and Influence*. He observes:

³²Kegley Jr. and Wittkopf, "American Foreign Policy: Pattern and Process", p. 41.

³³Ibid.

³⁴Rubenstein, "Soviet Foreign Policy Since World War II: Imperial and Global", p. 51.

³⁵Andrei Zhdanov, "The International Situation", (Moscow: Foreign Language Publishing House, 1947), excerpts.

³⁶Ibid.

³⁷Robert C. Horn, "Soviet-Indian Relations: Issues and Influence", (New York: Praeger Publishers, 1982), p. 3.

The emergence of large quantities of nuclear weapons had encouraged, in the post-Stalin Soviet leadership, an appreciation of the very real danger of East-West confrontations having catastrophic results. The area of greatest potential explosiveness was naturally Europe where already tensions were high and the situation was stalemated. However, while the status quo should and could be maintained there, Soviet leaders sought other areas where the struggle or competition . . . could be waged. It was in the Third World, Krushchev and others enthusiastically and optimistically believed, where the West seemed particularly vulnerable.³⁸

The second foreign policy objective of the Soviet Union dealt with the purely strategic concern of extending the Soviet presence to those areas of the world that had heretofore been beyond the political and economic capabilities of the state.

In an effort to achieve these goals, Krushchev denounced the Zhadanov line of supporting foreign communist parties in the non-aligned states which were attempting to overthrow the new nationalist bourgeois governments. This policy had proven to be counter-productive over the past decade because foreign communist parties were being eliminated from the mainstream of political activity in their own countries. Therefore, the Zhadanov line was replaced by a number of far-reaching economic and military assistance programs aimed at destabilizing both the system of Western-oriented military alliances and the entire international economic system—which was believed to be designed to favor the industrialized economies of the West.

The basis of Moscow's new approach was "peaceful coexistence." This new policy was announced by Krushchev himself at the Twentieth Congress of the Communist Party of the Soviet Union, and was intended to signal the Third World that the Soviets were willing to cooperate with different social and political systems for the purpose of promoting democracy. He suggested that the two forces should abandon their antagonisms and work together in what he called a "zone of peace." The Soviet leader emphasized his apparent sincerity by promising that his government would make a concentrated effort to establish an atmosphere of friendship and cooperation with those states "which stand for peace, refuse to be involved in military pacts, and seek to preserve peace."³⁹

Officials in Washington recognized that their Third World interests could be threatened by Moscow's "forward" policy. Thus, they began to re-evaluate an outdated U.S. policy to respond to this new international development. Although American involvement in the non-aligned states began with the dissolution of the European colonial empires, Washington had underestimated the strong feelings of nationalism that these newly emerging states possessed. It perceived the non-aligned states exclusively as an additional bulwark against communist expansion, and showed little concern for those problems which were particular to the Third World. This policy led to the alienation of many influential leaders of the non-aligned movement, such as President Nasser of Egypt and Prime Minister Nehru of India, for their refusals to choose sides in the Cold War.⁴⁰

Once the Soviets implemented their new policy, U.S. officials were forced to admit that they had misjudged the purpose of non-alignment—a miscalculation which cost them a great deal of credibility in the Third World. By the mid-50's, the Americans came to realize that their condemnation of non-alignment for its neutralist philosophy was driving the Third World states closer to the Soviet Union. It was at this point that the U.S. began to develop a different strategy for waging the Cold War in the non-aligned states. President Kennedy set

³⁸Ibid, p. 4.

³⁹N. S. Krushchev, "Report to the Central Committee of the Communist Party of the Soviet Union to the 20th Party Congress", *Pravda*, February 15, 1956.

⁴⁰Selig S. Harrison, "India, Pakistan and the U.S.: Cost of a Mistake", *New Republic*, August 10, 1959, p. 13.

the tone for this new policy in the early 60's, when he established the Alliance for Progress to promote social and economic advancement in the less-developed states of the Western hemisphere. America's new policy was also reflected in Kennedy's attempts to bring about closer relations with India, to replace the animosity that existed between the two states with a genuine atmosphere of friendship and cooperation.

The expansion of the Cold War into the Third World signifies a desire by both Washington and Moscow to link their own security needs with the entire global balance of power. In pursuit of this comprehensive global strategy, the superpowers have adopted the same justifications for the use or threat of force in the non-aligned states that had previously been used to polarize Eastern and Western Europe.⁴¹ Future developments may prove that there was a legitimate cause for either one or both of the superpowers to take defensive measures in the Third World, however, most of the evidence up to this point would seem to indicate that American and Soviet actions in these states are contrary to the contemporary self-defense doctrine.

One of the first arguments raised against superpower involvement in the Third World is the fact that international law has not yet established a correlation between self-defense and the Cold War. Therefore, critics maintain there can be no legal right of self-defense until the subversive activities undertaken in this type of warfare are classified as delicts. This position is evident in Bowett's statement that "the right of self-defense in relation to these new techniques (of ideological warfare) will only have a juridical connotation when their use can be characterized as delictual."⁴² In the meantime, any use of force by the United States or the Soviet Union on the basis of ideology alone should be interpreted as an exercise in self-preservation, and not self-defense.

The fact that states are presently denied the right of self-defense in a case of ideological warfare does not mean that this type of conflict is harmless. On the contrary, the same critics who would argue against the defensive use of force as a response to subversive activities based on ideology would also agree that these activities constitute a very real threat to the continuation of state sovereignty.⁴³ The problem is that these new techniques represent a development in international relations which our contemporary legal system has not come to terms with. Keeping these realities in mind, it would seem reasonably safe to assume that self-defense will eventually incorporate the use of force in response to certain types of ideological warfare. When this happens, American and Soviet actions will have to be examined more carefully. Even so, debate will continue over the legality of the superpowers' actions in the non-aligned states because Third World events do not, as a general rule, pose a threat to the substantive rights which have traditionally been protected by self-defense. These rights include the defense of territorial integrity, political independence, certain economic interests and the protection of nationals.⁴⁴

The most important issue for this analysis of United States—Soviet relations is the right of political independence. In part, this right involves a state's freedom to ". . . maintain diplomatic intercourse with other members of the international community."⁴⁵ Thus, to justify

⁴¹ Ante, pp. 11-14.

⁴² Bowett, "Self-Defense in International Law", p. 271.

⁴³ Ibid., p. 271. Also See Julius Stone, "Legal Control of International Conflict", (New York: Rinehart and Company Inc., 1959), p. 318-32.

⁴⁴ Bowett, "Self-Defense in International Law", pp. 29-114.

⁴⁵ Hershey, "Essentials of Public International Law", 1912, p. 147.

the use of force in self-defense, each superpower argues that military intervention by its ideological adversary poses a direct threat to its own ability to establish and maintain friendly diplomatic relations with certain non-aligned states. The White House bases its argument on the conviction that communism is dedicated to the destruction of American international prestige. It supports this belief by blaming the unfriendly relations which exist between the United States and states like Cuba, Nicaragua and Angola on Soviet military support for the governments presently in power. The Soviets, on the other hand, view the United States' actions as nothing more than an imperialist crusade to eliminate their influence in the Third World. They claim that as long as the United States gives military aid to oppressive governments in states like El Salvador, Chile and Zaire, the Soviet Union can never establish friendly relations with these states. In reality, however, both the American and Soviet arguments do not provide a clear explanation for the present state of relations between the superpowers and the non-aligned world.

One extremely critical fact the superpowers attempt to downplay when explaining their use of force in the Third World is that the non-aligned states have developed different interests and priorities apart from the Cold War.⁴⁶ The members of the Third World have been placed in the unique position of participating in a system of international relations that was established without their consent. In fact, many of the non-aligned states were exploited colonies of the European powers when the foundation was laid for the contemporary system of inter-state relations. Consequently, the newest members of the international community are more concerned with becoming equal participants in world affairs, as opposed to choosing sides in an ideological conflict which does not directly concern them. The most illustrative example of this point is the on-going North-South dialogue.

These negotiations between the industrialized, economically affluent states of the world's northern hemisphere and the less-developed, impoverished states primarily located in the south, revolve around the central question of how the latter can gain more economic independence. The non-aligned states claim that the present international economic order has numerous structural inequities which inhibit their growth. In an attempt to rectify the situation, they have proposed the creation of a New International Economic Order that would transfer some of the world's wealth to their poor states.⁴⁷ However, as members of the industrialized world, the superpowers have been reluctant to alter the present international economic system because it favors their advanced economies. Thus, the United States and the Soviet Union have created a major division between themselves and the Third World which has nothing to do with the ideological struggle between East and West.

The refusal of the non-aligned states to become involved in East-West issues has discredited the entire foundation of American and Soviet foreign policy in the Third World. Since the non-aligned states have begun to independently pursue their own objectives, the superpowers cannot justify their use of force in the Third World on the basis of the Cold War. This does not mean that instances never arise in which the superpowers would be justified in resorting to force in self-defense. For example, the United States had a legitimate right to attempt to use force to free the hostages that were taken by Iranian revolutionaries in 1979. However, if the American and Soviet use of force in the non-aligned states is to be interpreted favorably, it must be in response to a specific situation, and not a reaction based on Cold War ideology.

⁴⁶Kegley Jr. and Wittkopf, "American Foreign Policy: Pattern and Process", p. 160.

⁴⁷Ibid, p. 160.