

# INTERNATIONAL LAW AND INTERNATIONAL RELATIONS

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TABLE 1.2.2. *Interstate Territorial Aggressions, 1946-2000*

States involved	Issue	Outcome	Change
Europe			
Turkey-Cyprus, 1974-present	Turkey invaded Cyprus to protect the Turkish Cypriot community. It gathered all Turkish Cypriots into the northern 40 percent of the island. In 1983 Turkey supported the creation of the Turkish Republic of Northern Cyprus (TRNC). Turkish troops remain in the TRNC.	The UN and NATO opposed the invasion and recognition of the TRNC. Western and UN attempts to negotiate a settlement based on a federation of the two sections of the island have failed. Only Turkey recognizes the TRNC.	Major change
Yugoslavia-Slovenia, 1991	Yugoslavia's armed forces attacked to try to reverse Slovenia's departure from the federation after Slovenia declared independence on 25 June 1991.	Yugoslavia ceased its attack after eight days of fighting and withdrew from Slovenia.	No change
Yugoslavia-Croatia, 1991-95	Croatia declared independence in 1991. Yugoslavia (Serbia-Montenegro) sent troops to assist Serbs in Croatia (12 percent of pop.) who wanted to attach their areas to Yugoslavia. Most Serb troops defending Serb enclaves came from Croatia, but some came from Yugoslavia.	UN called for withdrawal of foreign troops and a cease-fire. Fighting killed 15,000. Main Serb force was defeated in 1995. Dayton accord in 1995 recognized former boundary. Yugoslavia and Croatia recognized boundary in bilateral treaty in August 1996.	No change
Yugoslavia-Bosnia, 1992-95	Bosnia declared independence in 1992. Serb population of Bosnia (assisted by Yugoslav military) fought against an alliance of Bosnian Muslims and Bosnian Croats. The Serb forces wanted to unite parts of Bosnia with Yugoslavia. The Croatian army intervened at times, and in a few instances it fought Muslim forces.	UN called for withdrawal of non-Bosnian troops and cease-fire. The fighting killed 200,000. The 1995 Dayton accord created a multiethnic government and recognized the original boundaries of Bosnia-Herzegovina. Yugoslavia and Bosnia recognized boundary in bilateral treaty in October 1996.	No change

(continued)

States involved	Issue	Outcome	Change
<b>The Americas</b>			
Nicaragua–Honduras, 1957	Nicaragua occupied a part of Honduras.	Nicaragua withdrew and accepted ICJ arbitration because of OAS pressure. ICJ awarded territory to Honduras in 1959.	No change
Argentina–Britain, 1982	Argentina occupied Malvinas/Falkland islands.	UN called for Argentina's withdrawal. Britain reoccupied islands.	No change
Ecuador–Peru, 1995	Ecuador sent troops into an area it lost in peace treaty at end of 1942 war.	Four guarantor powers of 1942 treaty promoted withdrawal. The two states signed a border treaty in 1998.	No change
<b>Africa</b>			
Egypt–Sudan, 1958	Egypt occupied a small area of Sudanese territory.	Arab League pressured Egypt to withdraw.	No change
Ghana–Upper Volta, 1963–65	Ghana occupied a small border area of Upper Volta in 1963.	In 1965 OAU supported original boundary. Ghana withdrew.	No change
Algeria–Morocco, 1963	Morocco occupied a part of Algeria.	Arab League and OAU called for withdrawal. OAU established mediators. Morocco withdrew.	No change
Somalia–Ethiopia and Kenya, 1964	Somalia provided troops to Somali rebels in eastern Ethiopia and northern Kenya seeking union with Somalia.	OAU supported original boundaries and established mediator. Somalia withdrew.	No change
Libya–Chad, 1973–87	In 1973 Libya secretly occupied a border area of Chad called the Aouzou Strip.	OAU tried to secure Libyan withdrawal in 1980s. Libya was driven out by Chad in 1987. ICJ arbitration was accepted in 1990. ICJ ruled in Chad's favor in 1994.	No change

(continued)

TABLE 12.2 (continued)

States involved	Issue	Outcome	Change
Africa (cont.)			
Mali-Burkina Faso, 1975	Mali claimed a small area of Burkina Faso in 1960. Mali occupied the area in 1975.	OAU mediated a cease-fire and withdrawal by Mali.	No change
Somalia-Ethiopia, 1976-80	Somalia occupied most of the Ogaden region of Ethiopia. Ethiopia received military forces from Cuba.	An OAU committee called for respect for former boundary. Somalia withdrew all forces by 1980.	No change
Uganda-Tanzania, 1978	Uganda occupied a small part of Tanzania.	Within several weeks of Tanzanian military action, Uganda withdrew.	No change
Morocco-Spanish Sahara, 1975-2000	Morocco claimed Spanish Sahara prior to independence and sent in military contingents in 1975. Under pressure Spain agreed to cede the colony. Since 1976 Morocco and the independence movement Polisario have conducted a continuous war.	The OAU and the UN have called for Moroccan withdrawal and a referendum. The UN tried to organize a referendum during the 1990s. (Mauritania occupied part of Spanish Sahara from 1976 to 1978.)	Major change
Libya-Chad, 1981-82	Libya pressured Chad to accept a political union in exchange for military assistance in its civil war.	OAU opposed union and provided some troops. Chad ended political union and Libya withdrew troops.	No change
Mali-Burkina Faso, 1985	Dispute over a small strip existed from time of independence and led to violence again.	In 1985 they accepted ICJ arbitration as a result of OAU mediation. In 1986 ICJ divided the area equally between the two states.	Minor change
Eritrea-Ethiopia, 1998-2000	Eritrea and Ethiopia dispute sovereignty over several small border regions. Eritrea occupied some areas in 1998. In 1999 and 2000 Ethiopia regained control of all areas.	The OAU and the Western powers promoted a cease-fire, a withdrawal to the pre-1998 boundary, and arbitration based on colonial treaties. These were accepted in June 2000.	No change

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States involved	Issue	Outcome	Change
<b>Middle East</b>			
Arab states— Israel, 1948	Britain accepted a UN recommendation to divide Palestine into Israeli and Arab states. Neighboring Arab states attacked Israel at time of independence in May 1948 to support Palestinian Arabs' claim to entire area.	Israel gained territory in each stage of the war. At end of 1948 both sides accepted armistice lines. Arab Palestinians retained control of the West Bank and Gaza Strip (administered by Jordan and Egypt).	Major change
Israel—Arab states, 1967	Israel occupied the West Bank, Gaza Strip, Sinai, and Golan Heights. It later annexed East Jerusalem and applied Israeli law to Golan Heights.	UN Security Council in November 1967 called for withdrawal of Israel to 1948 armistice lines in exchange for recognition by Arab states of Israel. In 1978 Israel agreed to return the Sinai; in 1993 Israel accepted staged implementation of self-rule for West Bank and Gaza.	Major change
Egypt and Syria—Israel, 1973	Egypt and Syria sought to recapture the Sinai and Golan Heights.	UN Security Council called for cease-fire. Fighting ended after two weeks. Egypt was allowed to keep a small enclave in the Sinai.	Minor change
Iraq—Kuwait, 1990–91	Iraq invaded Kuwait and annexed it.	Most UN members called for Iraq's withdrawal. Iraq was expelled by a UN-sanctioned force.	No change
<b>Asia</b>			
Pakistan—India, 1947–48	British India was partitioned and India and Pakistan became independent in 1947. Pakistan army joined Muslim rebels in Kashmir who were seeking union of Kashmir with Pakistan.	Pakistan secured control over a sparsely populated third of Kashmir by end of war. UN Security Council supported plebiscite during war, but India did not accept it. Post-1948 border is the Line of Control.	Major change
North Korea— South Korea, 1950–53	North Korea attempted to absorb South Korea.	Armistice line reflects very minor changes in former boundary.	Minor change

TABLE 12.2 (continued)

States involved	Issue	Outcome	Change
Asia (continued)			
China-Burma, 1956	China moved into a small border area of Burma.	The two states negotiated a new border that gave China a part of the area it occupied.	Minor change
Afghanistan-Pakistan, 1961	Afghanistan sent irregular Afghan forces into the Pathanistan region of Pakistan to support local forces favoring union with Afghanistan.	Afghan incursions were defeated by Pakistan.	No change
India-Portugal, 1961	India invaded and absorbed the Portuguese-controlled colony of Goa.	Most states accepted the legitimacy of India's action.	Major change
Indonesia-Netherlands, 1961-62	Indonesia claimed West New Guinea (West Irian) over which the Netherlands had colonial control. Indonesia invaded in 1961.	In 1962 Indonesia and the Netherlands agreed to a plebiscite after one year of UN administration. The plebiscite favored integration with Indonesia.	Major change
China-India, 1962	China occupied Aksai Chin and part of Northeast Frontier Agency that it claimed.	China still occupies the areas.	Major change
North Vietnam-South Vietnam, 1962-75	France administered the northern and southern parts of Vietnam separately prior to 1954. After independence in 1954 South Vietnam did not allow a referendum on unification as provided in the Paris peace accord. By 1962 North Vietnamese forces were fighting with the Viet Cong to promote unification.	In 1975 North Vietnamese and Viet Cong forces defeated the South Vietnamese army, and the two areas were reunified.	Major change
Indonesia-Malaysia, 1963-65	Indonesia claimed the Malaysian territory of North Borneo, and it introduced military contingents to expel Malaysian authorities.	Britain and Australia sent troops to help Malaysia. Indonesia was unsuccessful.	No change
Pakistan-India, April 1965	Pakistan sent a force into the Rann of Kutch.	Britain negotiated a cease-fire and the parties agreed to an arbitration that awarded 10 percent of the area to Pakistan in 1968.	Minor change

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States involved	Issue	Outcome	Change
Asia (continued)			
Pakistan-India, August 1965	Pakistan attacked India to secure control of the Indian-controlled part of Kashmir.	Pakistan was defeated. USSR and Western powers backed the 1948 Line of Control.	No change
India-Pakistan (creation of Bangladesh), 1971	The Bengali population in East Pakistan sought to secede from Pakistan. Indian troops intervened in the civil war to secure the creation of Bangladesh.	The UN General Assembly called for Indian withdrawal; India did not withdraw, and it facilitated the creation of Bangladesh.	Major change
Iran-United Arab Emirates, 1971	Upon Britain's granting of independence to the UAE Iran occupied some of the islands in the Straits of Hormuz that belonged to the UAE.	Iran maintains control of the islands.	Major change
China-South Vietnam, 1974	China expelled South Vietnam from the western Paracel Islands that it claimed.	China maintains control of the islands.	Major change
Indonesia-Portugal (East Timor), 1975-99	Indonesia invaded East Timor several months before it was to achieve independence from Portugal. It made it a province of Indonesia.	UN demanded Indonesian withdrawal and self-determination through 1982. In 1999 Indonesia relented to international pressure and allowed a referendum that led to independence.	No change
Cambodia-Vietnam, 1977-78	Cambodia attacked Vietnam to establish control over a small border region.	Cambodian forces were defeated. War was the result mainly of political conflicts.	No change
Iraq-Iran, 1980-88	Iraq invaded Iran to seize control of the Shatt al-Arab waterway and some other areas.	UN Security Council backed acceptance of former boundary in 1987. The two states accepted a cease-fire in 1988 and the former boundary in 1990.	No change

*Note:* Of the forty interstate territorial conflicts listed here, twelve involved major redistributions of territory, and five involved minor alterations of borders. A "minor change" refers to small border adjustments. Any change apart from a minor border alteration is regarded as a "major change." The conflict over the Spratly Islands, which involves China, Taiwan, Vietnam, Philippines, Malaysia, and Brunei, is not included because there has never been any local or international consensus on jurisdictions. See Haller-Trost 1990; and Lo 1989.

between Yugoslavia and Slovenia in 1991) the NATO states and the UN were active in promoting respect for boundaries. In the Western Hemisphere the OAS or an important group of OAS members was active in promoting a withdrawal of forces in two conflicts, and the UN backed withdrawal in the other. In Africa the OAU was very active in ten of the twelve territorial wars (one being prior to the OAU's creation), and the UN played a role in several conflicts as well. In the Middle East the UN played a significant role in promoting a return to the status quo ante in three territorial wars (not the Arab-Israeli war of 1948). In Asia international organizations have not been active in most of the seventeen territorial wars. However, the UN had a major long-term role in promoting Indonesia's recent withdrawal from East Timor.

### **The Boundaries of Successor States**

In discussing the post-1945 stabilization of boundaries another pattern of international behavior should be noted, since it is closely related to support for the prohibition of the use of force to alter boundaries. During the postwar period, all of the successor states that emerged from the nine breakups of existing states have kept their former internal administrative boundaries as their new international boundaries.<sup>37</sup> In fact, in cases where some doubt existed as to whether the successor states would accept these boundaries, outside countries pressured the successor states to adopt their former administrative boundaries as their new interstate borders. This indicates that states generally desire predictability regarding the international territorial order. They do not like secessions, but if they are going to occur, they do not want the successor states fighting over what their boundaries should be.

Some of the best examples of international policy on this issue concern the breakups of the former Yugoslavia and the former Soviet Union.

<sup>37</sup> Syria's secession from the UAR in 1961, Singapore's secession from Malaysia in 1965, Bangladesh's secession from Pakistan in 1971, Gambia's secession from Senegambia in 1989, Namibia's secession from South Africa in 1990, Eritrea's secession from Ethiopia in 1993, the breakup of the former Soviet Union into fifteen states in 1991, Yugoslavia's breakup into five states in 1991-92, and Slovakia's secession from Czechoslovakia in 1992. In the case of Eritrea-Ethiopia, they maintained the former internal administrative boundary from 1993 to 1998. In 1998 Eritrea occupied several small border areas, and in 1999 and 2000 Ethiopia regained the lost territories. In 2000 the OAU backed withdrawal of all forces behind the pre-1998 boundary and the establishment of an arbitral body to settle the dispute.



The United States and the European powers went to tremendous lengths to preserve the former internal administrative boundaries of Croatia and Bosnia as their new international boundaries. These boundaries were legitimated in the Western countries' recognition of these states in 1992, the 1995 Dayton accord, and the 1996 accords between Yugoslavia (Serbia), on the one hand, and Croatia and Bosnia, on the other.<sup>38</sup> The Western countries have also been active in promoting respect among the Soviet successor states for the boundaries they originally possessed as Soviet republics. Concerning why the former internal boundaries have been maintained as interstate borders, Neil MacFarlane has remarked:

Most significant . . . are the norms of sovereignty and non-intervention and the principle of territorial integrity. The 15 republics of the former Soviet space exist in the territorial boundaries defined under Soviet rule, whether or not they make sense in ethno-geographical terms, or correspond to the aspirations of the people living within them. They do so in part because Western states and international organizations . . . have self-consciously promoted these norms. . . . For better or worse, the West is committed to the attempt to address problems relating to minority rights within the context of acceptance of the sovereignty and territorial integrity of the new states.<sup>39</sup>

Western efforts at promoting the territorial integrity of the successor states (often through the OSCE) have focused on keeping Nagorno-Karabakh (an Armenian enclave) within Azerbaijan and keeping Abkhazia and Ossetia within Georgia, but Western policy has had a broader impact as well in strengthening the international territorial order among the Soviet successor states.<sup>40</sup>

It is impossible to declare that the acceptance of internal administrative boundaries as interstate boundaries for secessionist states is now an authoritative rule of international practice. Quite possibly, however, this norm will become entrenched as a part of the new territorial order that flows from states' concern for reducing the incidence of destructive wars and wars' impact on commercial relations. States and international commercial interests increasingly abhor violence and uncertainty over what political entities have jurisdiction over particular geographical spaces.

<sup>38</sup> See Weller 1992, 587, 602; and Ullman 1996.

<sup>39</sup> MacFarlane 1999, 4, 16.

<sup>40</sup> See Baranovsky 1966, 267–78; Webber 1997; MacFarlane and Minnear 1997; and Menon 1998. Armenia's support for the Armenian population in Azerbaijan is not regarded as an interstate territorial war because Armenia (some of whose army fought for Nagorno-Karabakh) has not explicitly backed secession by Nagorno-Karabakh.

### Overview of Stages in the Development of the Norm

In concluding the discussion of the evolution of normative declarations and state practices concerning coercive territorial revisionism, it is valuable to look at past developments as falling into a number of stages. Two scholars have identified three stages of norm development as emergence, acceptance, and institutionalization.<sup>41</sup> The emergence stage is marked by a growing advocacy of the new norm by important countries and non-governmental groups and some multilateral declarations. The acceptance stage is characterized by growing support for the norm and its integration into treaties to that point where it is viewed as legally binding by most countries. The institutionalization stage includes the integration of the norm in additional international accords and more effective multilateral efforts to promote state compliance.

Before moving to an analysis of the three stages of norm development during the twentieth century, I offer some observations about the nineteenth century. The magnitude of international violence declined from 1815 to 1913 as a result of regular consultations within the framework of the Concert of Europe, but the great powers were involved periodically in territorial aggrandizement within the Western state system as well as in colonial expansion in the Southern Hemisphere. In fact, territorial adjustments in Europe and in the colonial world were central to maintaining a balance of power.

The *emergence stage* of norm development started with the end of World War I and more particularly Article 10 of the League Covenant, and it lasted through the end of World War II. The major proponents of the norm were the Western democratic states. During this period major multilateral treaties and declarations for the first time upheld the territorial integrity norm – particularly the 1919 League Covenant, the 1928 Kellogg-Briand Pact, and the League's approval of the Stimson Doctrine in 1931. At the same time the great powers tolerated a number of territorial aggressions, and Germany, Italy, and Japan became increasingly committed to territorial expansion in the 1930s. The emergence stage was very bloody, but it was states' experience with this era of destructive territorial aggrandizement that increased support for the norm after World War II.

The *acceptance stage* of norm development began with the adoption of Article 2(4) in the UN Charter in June 1945, and it lasted until the

<sup>41</sup> Finnemore and Sikkink 1999, 254–61.

mid-1970s. It was not until the 1960s and early 1970s that broad and strong backing for the norm became palpable. The key post-1945 multilateral accords were the 1960 UN declaration that upheld the territorial integrity of states and pronounced that existing colonies (not ethnic groups) were eligible for self-determination; the OAU's 1963 charter provision \*\*\* supporting respect for inherited boundaries; and the 1975 CSCE's Helsinki Final Act with its proscription that boundaries could only be altered by consent. In 1975 the last case of significant territorial revisionism occurred – Morocco's absorption of the Spanish Sahara.

The *institutionalization* (strengthening) *stage* of norm development encompassed the period from 1976 to the present; no major cases of successful territorial aggrandizement have occurred during this period. The key events that strengthened the norm were states' responses to individual conflicts. Particularly noteworthy cases were Somalia's war against Ethiopia, 1976–80; Iraq's occupation of Kuwait, 1990–91; and Yugoslavia's attempts to absorb parts of Croatia and Bosnia, 1992–95. Also important was the decision by Indonesia in 1999 to allow a referendum in East Timor. Another noteworthy development during this period was the International Court of Justice's adjudication of several territorial conflicts. The court based its decisions on the principle of *uti possidetis*, which means that states have rights to those territories that were legally ceded to them by prior governing states and that other states do not have the right to take these territories by force.<sup>42</sup>

#### ROOTS OF THE NEW TERRITORIAL ORDER

International practices regarding the use of force to alter boundaries have changed markedly in recent years, and in this section I analyze the reason for this transformation in the international order. At the heart of this analysis are several general assertions. First, states have backed the norm for both instrumental and ideational reasons, though the former have dominated. Instrumental reasons are rooted in perceptions of how a norm and congruent practices benefit the self-interests of countries. Ideational reasons are rooted in changing views of ethical behavior toward other peoples and states. A number of scholars have recognized that both instrumental and ideational factors influence the evolution of

<sup>42</sup> Prescott 1998, 241–52.

norms and that applying an “either/or” approach concerning their influence is wrong.<sup>43</sup>

Second, the reasons for such a change in beliefs and practices have varied among countries, and no single factor explains the support for the norm among a particular grouping of states.<sup>44</sup> These factors include the perceived relationship between territorial aggrandizement and major international wars, the power relations between possible territorial aggressors and the major powers supporting the norm, the costs and benefits of territorial aggrandizement, and moral predispositions concerning territorial aggression. Although we can speculate about the relative importance of specific factors, providing definitive conclusions about the weight of each is difficult when the factors have generally pressured states in the same direction. It appears that the coincidence of several factors has been crucial for both the Western and the developing states’ backing of the norm.

Among the *Western industrialized states*, the *association of territorial revisionism with major wars* was the central driving force that led these states after World Wars I and II to advocate a prohibition of coercive territorial revisionism. The key international affirmations of the norm were after the world wars in 1919 and 1945 and at the 1975 Helsinki conference whose central purpose was the prevention of a major war between the Western and Soviet alliances. Territorial aggrandizement was not the central motivation of the key antagonists in World War I, but it played a part in states’ participation and the postwar settlements. Also, attempts to promote national self-determination and hence border changes exacerbated feelings of international hostility after World War I, and this made many states wary of this justification for territorial revisionism. To quote Michael Howard, “The Mazzinian doctrine, that peace could result only from national self-determination, had left its followers in disarray. It had caused chaos at the Paris peace conference, and it was increasingly clear that this mode of thought lent itself far more readily to right-wing authoritarianism . . . than it did to any form of parliamentary democracy.”<sup>45</sup>

<sup>43</sup> See Nadelmann 1990; Finnemore 1996; Finnemore and Sikkink 1999; Jackson 1993; and Ruggie 1999.

<sup>44</sup> The Soviet bloc is not specifically discussed in this section. It was generally supportive of existing boundaries because it wanted to legitimize the Eastern European boundaries that were established in 1945. Like the Western powers it occasionally supported territorial revisionism for Cold War reasons, for example, Afghanistan-Pakistan, 1961; and Indonesia-Malaysia, 1963–65.

<sup>45</sup> Howard 1978, 95.